SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF VENTURA

ALLIANCE FOR A REGIONAL SOLUTION TO AIRPORT CONGESTION;

Petitioner,

v.

CITY OF LOS ANGELES, a municipal corporation; CITY COUNCIL OF THE CITY OF LOS ANGELES; ANTONIO VILLARAIGOSA, Mayor, City of Los Angeles; BOARD OF AIRPORT COMMISSIONERS; LOS ANGELES WORLD AIRPORTS; BOARD OF AIRPORT COMMISSIONERS; GINA MARIE LINDSEY, Executive Director, Los Angeles World Airports; and DOES 1-X;

Respondents.

CITY OF INGLEWOOD, CALIFORNIA, a chartered municipal corporation; CITY OF CULVER CITY, CALIFORNIA, a chartered municipal corporation; etc.

Petitioners and Plaintiffs,

v.

CITY OF LOS ANGELES, CALIFORNIA, a chartered municipal corporation; CITY COUNCIL OF THE CITY OF LOS ANGELES; ANTONIO VILLARAIGOSA, Mayor, City of Los Angeles; Los Angeles World Airports a/k/a DEPARTMENT OF AIRPORTS OF THE CITY OF LOS ANGELES; LOS ANGELES BOARD OF AIRPORT COMMISSIONERS; and DOES 1 through 100 inclusive,

Respondents and Defendants.

Case No.: 56-2014-00451038-CU-WM-OXN

CONSOLIDATED ORDER ON

PETITIONS FOR WRIT OF MANDATE

[*Former Los Angeles Superior Court Case BS143086, Consolidated with LASC Case Nos. BS143328 and BS1433292*]

Introduction

The two northern runways at Los Angeles International Airport ["LAX"] were constructed in the late 1960s to accommodate a fleet of jet aircraft, the largest and most common of which was the Boeing 727. [Administrative Record ("AR") 49, 56, 4269.][1] The Boeing 727 aircraft has a wingspan of 108 feet, a length of 153 feet, a tail height of 34 feet, and a maximum takeoff weight of 200,000 pounds. [AR 49, 57, 4269.]

The largest aircraft currently flying into and out of LAX is an Airbus A380. The Airbus A380 has a wingspan of 261 feet, a length of 231 feet, a tail height of 79 feet, and a maximum takeoff weight of 1,235,000 pounds. [AR 49, 57, 4269.] Using aircraft weight as a comparison, the Airbus A380 is 6.17 times larger than the Boeing 727 [1,235,000 ÷ 200,000].

The northern runways and taxiways at LAX remain engineered for what are now smaller jet aircraft. [AR 56-59, 4269.] Larger departing aircraft are required to taxi to the south LAX airfield. [AR 52, 56, 58-59, 147, 4270.] There are "insufficient side-by-side passing clearances"

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[1] The administrative record in this case, per CRC 3.2207, was submitted on a single two-inch USB flash drive. The flash drive contains three main folders. The first main folder, titled "LAWA_ ADMINISTRATIVE_RECORD", contains 143,321 Bates-marked pages, plus more than 60,000 pages of non-Bates stamped aircraft emission calculation spreadsheets presented in native format. This first folder is indexed topically as required by CRC 3.2205, with each page "Bates stamped" from "1" through and including "143321"; other than the raw data air emissions calculations. This court's references to the record found in that folder are identified as "AR [Bates number]". In accessing that folder, a Microsoft Excel spreadsheet index identifies each CRC 3.2205 category. Each document can then be accessed through direct hyperlinks or, in some cases, by highlighting the hyperlink reference and accessing through "CTRL + Enter".

Another subfile within that folder is labeled "H-6.11.132". This subfile contains non-Bates stamped air-quality emissions data spreadsheets which, if printed and numbered, would consist of 60,000-80,000 printed pages. These files can be cross-accessed through the main administrative record at AR 131649.

The second main folder on the flash drive is entitled "LAX SPAS EMAIL ADMINISTRATIVE RECORD", consists of 15,352 emails selected from the electronic mailbox of project manager Diego Alvarez, totaling 46,878 pages. The file likewise opens to an Excel spreadsheet index with document hyperlinks. These emails are separately Bates stamped from "DA1" through "DA46878".

The third and final main folder on the flash drive is entitled "LAX SPAS FIRST SUPPLEMENT TO NON-EMAIL ADMINISTRATIVE RECORD". The Excel spreadsheet index allows hyperlinks to supplemental documents with Bates numbering beginning at "143,322" and concluding at "144,823". The administrative record on the flash drive is therefore in excess of a quarter of a million pages, if it were lodged in print form [144,823 + 46,878 + >60,000].

between certain types of aircraft arriving and departing the north airfield. [AR 52, 58-59, 4270.] Moreover, the north LAX airfield is out of compliance with federal aviation standards, placing the aircraft using the north airfield at "increased risk of incursions and collisions". [AR 56, 58-59, 4270.]

On April 2, 2010, after two LAX northern runway safety incidents within ten days, the Administrator of the Federal Aviation Administration ["FAA"][2] admonished the City of Los Angeles ["Los Angeles"] to reconfigure its north LAX airfield "to accommodate modern aircraft" by "further separating the two runways and building a center taxiway between them". [AR 2979-2980, 115282-115283.]

On April 30, 2013, Los Angeles' City Council certified the accuracy of a program environmental impact report ["EIR"], which program would lead to safety improvements to the north LAX airfield consistent with the FAA Administrator's direction, along with a substantial series of non-runway public transportation improvements. This consolidation of two lawsuits filed under the California Environmental Quality Act ["CEQA"] challenges those program-level approvals.

Mines Field 1928-1949

In 1928, the location of what is now LAX was planted to lima beans, barley and wheat by agricultural lessee Andrew Bennett. [AR 81092.] On August 13, 1928, Los Angeles authorized an ordinance subleasing 640 acres of the Bennett Rancho to establish a Los Angeles Municipal Airport. [*Id.*] In honor of the facilitating real estate agent, the airfield became known as "Mines Field". [*Id.*]

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[2] Public airports in the United States are regulated and overseen by the Federal Aviation Administration ["FAA"]:

> "**The FAA is responsible for regulating all aspects of air transportation, including airports**. These regulations ensure a high level of safety in airport operations. This regulatory process begins with airport planning and continues through design, construction, operation, and maintenance of all facilities. The existing operation and maintenance of LAX as a commercial airport is inspected and certified by the FAA. **All aspects of the existing (baseline) LAX design and operation are subject to FAA standards**." [AR 4936.] [Emphasis added.]

The chief executive officer of the FAA holds the title of "Administrator".
See https://www.faa.gov/about/history/media/AOA_bios.pdf

Mines Field was constructed east of Sepulveda Blvd., west of Aviation Blvd., south of Century Blvd. and north of Imperial Hwy., "surrounded by miles of agricultural fields". [AR 81097-81098, 81108.] As early commercial aircraft flew in and out of privately owned but more conveniently located Grand Central Airport in Glendale and the United Air Terminal in Burbank, Mines Field became home to private pilots and flying schools. [AR 81092-81093.] A 2000-foot all-weather runway was constructed at Mines Field. [*Id.*]

In 1937, the depression-era Works Projects Administration ["WPA"] approved funds for airfield improvements. [AR 81093.] The municipal runway at Mines Field was expanded to 4650 feet. [*Id.*]

In January 1942, one month after the United States entered World War II, the federal government assumed control of Mines Field and integrated the facility into the Allied war effort. [AR 81093.] As part of this wartime expansion, the Army Air Corps expanded Mines Field to include dining and housing facilities west of Sepulveda Blvd. [*Id.*] The military airfield was soon protected by seacoast fortifications and munitions storage built into the oceanfront sand dunes west of the facilities. [AR 7368-7369, 81093, 81099.]

The cramping caused by production of P-38 fighter aircraft at the Lockheed facility in Burbank caused commercial airlines to consider Mines Field as a superior location for post-war passenger flights. [AR 89103.] In August 1944, Los Angeles' Department of Airports released a new Master Plan, proposing facility expansion to accommodate commercial aircraft at Mines Field, plus a second phase allowing future airfield expansion into the open space west of Sepulveda. [*Id.*]

Los Angeles voters passed a bond measure in 1945, funding major airport development east of Sepulveda at Mines Field. [AR 81102.] A parking lot for 800 cars was constructed. [*Id.*] By January 1947, all five major air carriers -- United Airlines, TWA, Western Air, American Airlines and Pan-American Airways -- transferred their commercial operations to Mines Field. [*Id.*] On October 11, 1949, city officials renamed the facility "Los Angeles International Airport". [*Id.*]

LAX 1949 to 1999

Though Sepulveda Blvd. was re-routed westward to accommodate commercial takeoffs and landings, Pan-American Clipper planes bound for Hawaii and the Pacific still needed more clearance. [AR 81102.] The western runway fence on the east side of Sepulveda Blvd. was required to swing open at Sepulveda to facilitate Clipper departures. [*Id.*] To alleviate this inefficiency, construction began in 1951 to tunnel Sepulveda Blvd. under a proposed expanded airport runway to the west. [*Id.*] The Sepulveda tunnel project was completed in April 1953, at which time the runway at LAX expanded to 8000 feet. [*Id.*]

A bond measure was approved in June 1956 "to meet the burgeoning needs of the new 'jet age'". [AR 7359-7365, 81103.] The designers proposed and the city built a U-shaped access road with six ticketing buildings west of Sepulveda serving seven oval-shaped "satellites", accessed through subterranean tunnels, each with ten gate positions. [*Id.*] With an intent "to place travelers' automobiles as close as possible to the flights", a parking facility for 5000 vehicles was constructed inside the U-shaped ring. [*Id.*] In the center of the airport and parking facility, Los Angeles built a parabolic arched "Theme Building", with an observation deck and "flying saucer shaped" restaurant. [AR 25074, 81103.] Construction was completed in 1962. [AR 81108.]

At or about the same time, the introduction of commercial long-range jet aircraft, including the Boeing 707 and DC-8, brought significant change to the national system of airports, with the most immediate result being a rapid rise in air travel. [AR 7378, 81103.] In the decade between 1960 and 1970, LAX commercial passenger air travel more than tripled [3], and the impact on major airports became "overwhelming". [AR 81103.] Air cargo volume was also increasing at significant levels of magnitude.[4]

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[3] Air passenger traffic at LAX in 1960 totaled 6.06 million annual passengers ["MAP"]. By 1970, air passenger traffic at LAX had increased to 20.78 MAP. [AR 25096.]

[4] By the close of the 20th century, LAX was processing the second-highest volume of air cargo in the United States; of which nearly one-half of that air cargo was being shipped in the bellies of passenger aircraft. [AR 25109.]

In November 1978, Los Angeles' Board of Airport Commissioners ["BOAC"] approved construction of $500 million in facility improvements at LAX, including the addition of a second level to the Central Terminal Area ["CTA"] roadway system, the Tom Bradley international terminal, a new Terminal 1 and further parking expansion. [AR 25074.] In concert with its capital improvement program, in 1981, Los Angeles adopted an "Interim Plan" as an element of its general plan, deferring for future determination "[m]ajor policy issues with regard to airport capacity, roadway access, adjacent land use capacity, and environmental impacts...." [*Id.*] The capital improvements authorized in 1978 were completed in 1984, in time for the Summer Olympic Games. [AR 12732 (Ueberroth), 25074.]

Los Angeles' 1981 Interim Plan projected maximum air passenger at LAX to be 40,000,000 annual passengers per year [40 "MAP"]. [AR 25079.] The 40 MAP threshold of maximum projected passengers at LAX was exceeded by 1986. [*Id.*] The plan at the time had been to redirect excess passengers to regional "satellite" airports and to Palmdale International Airport. [*Id;* and see fn. 40, *post.*] A number of planning studies were undertaken between 1981 and 1995, but none of the studies resulted in the adoption of a long-term airport plan. [*Id.*]

The LAX 2000/2004 Master Plan – Alternative D

In 1995, Los Angeles began its current Master Plan[5] program. [AR 44, 4260, 20695.] Upon the completion of various studies, a Notice of Preparation ["NOP"] of a draft EIR/EIS issued on June 11, 1997. [AR 53581-53635.] Los Angeles' 1997 Master Plan NOP estimated passenger demand of 97.8 MAP at LAX by the year 2015. [AR 44, 4260, 53599.] In order to meet this demand, the NOP estimated that LAX would need, *inter alia*, one or two runways beyond the existing four runways; direct freeway access to the passenger terminals; an inter-terminal "people mover"; and a potential MTA light rail connection. [AR 53603-53616.]

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[5] "Master Plan" in this context is not a local land-use planning document, but rather, "a blueprint for long-term development" required by the FAA, which document must include an "Airport Layout Plan" ["ALP"], the FAA approval of which is a prerequisite for a grant of federal funds for airport development. [AR 18; also see http://www.faa.gov/airports/central/aip/sponsor_guide/media/0500.pdf]
Airport Master Plan regulatory approval is subject to federal environmental laws/regulations, including compliance with the National Environmental Policy Act ["NEPA"]. [*Id.*] This required federal compliance is the reason why environmental documents on the underlying Master Plan approval in this case combine both the CEQA EIR and the environmental impact statement ["EIS"] required under NEPA. [See, *e.g.*, AR 4439-4440, 4936-5015, 53578.]

In November 2000, Los Angeles issued a draft Master Plan, followed by a corresponding multi-volume draft EIR/EIS on January 18, 2001. [AR 25079, 27886.] **The existing facilities/ procedures capacity of LAX,** as most recently improved in 1984, **was estimated to be 79 MAP "under extremely congested and inconvenient conditions**". [AR 49, 25079, 25133.]

The January 2001 draft EIR/EIS presented three alternatives to modernize and handle the projected increased 97.8 MAP passenger and cargo traffic at LAX by year 2015. [AR 24994.] All three alternatives envisioned the construction of a new LAX airport terminal east of the coastal dunes along Pershing Dr., connected to the I-405 and I-105 Freeways by a "ring road" and an I-405 "LAX Expressway". [*Id.*] Alternative A proposed an additional north runway. Alternative B proposed an additional south runway. [*Id.*] Alternative C proposed no additional runways, but made other improvements to increase airport capacity to 89.6 MAP by year 2015. [*Id.*] The mandatory "no project" alternative[6] would leave LAX at a 78.7 MAP maximum capacity. [AR 24493.]

During the public comment period on the 2000 draft Master Plan, a number of commenters called for a stronger "regional approach" in order to redirect passengers to other airports[7], while at the same time, the events of September 11, 2001 significantly elevated issues of airport security. [AR 25079, 25235.] Accordingly, Los Angeles' then new mayor directed the airport executive board, the Board of Airport Commissioners ["BOAC'], to design a further project alternative, proposing to limit LAX passenger capacity to promote "regional solutions", and at the same time, redesigning airport entry and operations configurations to emphasize safety and security. [*Id.*]

The result of that further study culminated in a July 9, 2003 draft LAX Master Plan Addendum and Supplement to the January 2001 draft EIR/EIS. [AR 25079, 25133.] At that time, only one south side runway was sufficient to accommodate fully loaded larger aircraft on hot

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[6] 14 Cal. Code Regs. §15126.6(e).

[7] The population of the greater Los Angeles region comprises roughly one-half the population of the State of California. [AR 25099]. The geographic scope of the Los Angeles regional airport system is depicted on the map at AR 25107.] Between 1960 and 1997, LAX's share of regional air passengers decreased from 88% to 74.5%. [AR 25097.] Of the estimated air passengers in 1997 using LAX, 24% were "connecting" passengers. [AR 25102.] At that time, the *regional* air passenger forecast for the year 2020 was between 140 MAP and 178 MAP. [AR 25100.]

days with little wind. [AR 25133.] **All runways were found to be "too closely spaced to allow center taxiways so aircraft can clear the runways sooner and so that following aircraft can land at shorter intervals, thereby, decreasing airfield congestion and the risk of runway incursions**". [*Id.*]

Beyond the limitations of the runway infrastructure, the 2003 EIR Supplement noted even greater passenger capacity constraints due to the limited number of passenger gates and the vehicular congestion clogging on-airport circulation roads and off-airport access roads. [AR 25133.] The Supplement emphasized that an improper balance of system components of runways, taxiways, terminals, roads and parking lots would limit airport capacity to its "weakest link": "For example, if LAX were to increase airfield capacity but make no changes to terminals and roads, the capacity of the airport would be limited to the capacity of those terminals and roads." [*Id.*]

The 2003 EIR Supplement proposed and recommended a new "Alternative D" to the 2001 recommendation and alternatives. [AR 25139.] Under Alternative D, as a means to reduce departure/landing delays and the potential for "runway incursions" [8], the northernmost LAX runway, 6L/24R, would be extended 1495 feet west to a total length of 10,420 feet. [AR 25215.] The remaining northern runway, 6R/24L, would be reconstructed 340 feet *south* of the existing runway, and extended 135 feet west and 1280 feet east, to a total length of 11,700 feet. [*Id.*] In addition to the proposed runway improvements, Alternative D proposed a 10,420-foot-long central parallel taxiway, equidistant between the two northern runways to reduce the potential for runway incursions and to enhance the safety of aircraft operations. [AR 25216.] [9]

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[8] According to the FAA, a "runway incursion" is "any occurrence in the airport runway environment involving an aircraft, vehicle, person or object on the ground that creates a collision hazard or results in a loss of required separation with an aircraft taking off, intending to take off, landing, or intending to land." [AR 25215.] In the five years preceding the 2003 study, there were 38 "runway incursions" at LAX, five of which necessitated "extreme action... to avoid a collision". [AR 25216.]

[9] The northernmost LAX runway, designated "Runway 6L/24R", is primarily used for jet aircraft *arrivals*, which renders it the "inboard runway". [AR 56.] The southernmost of the two northern LAX runways, the runway closest to Terminals 1, 2 and 3, designated "Runway 6R/24L", is primarily used for jet aircraft *departures*, which renders it the "outboard runway". [*Id.*] Because the two north airfield runway technical designations are so similar, and the qualification of "inboard" or "outboard" is only slightly less confusing, this opinion will refer to the two runways as the "northernmost" LAX runway and the "southernmost" of the north airfield runways.

In addition to the proposed improvements to the two northern LAX runways, under proposed Alternative D, the southernmost LAX runway on the south side of the airport, 7R/25L, would be moved 50 feet further to the south, with a similar central parallel taxiway built between the two southern LAX runways. [AR 25216, 25223.]

Beyond the runway improvements, Alternative D proposed the elimination of what are currently Terminals 1, 2 and 3 [10]; the addition of a western satellite terminal/concourse; the expansion of the Tom Bradley international terminal; the relocation of all private vehicles out of the U-shaped Central Terminal Area ["CTA"]; the elimination of all parking structures within the CTA; replacement of the demolished terminals and parking areas with a linear passenger concourse; the addition of four air terminals in place of what is now the CTA parking area; the addition of a consolidated rental car facility immediately across Sepulveda Blvd to the northeast; the transfer of long-term public parking/passenger drop-off to an off-site Ground Transportation Center ["GTC"] between Aviation Blvd. and the I-405 Fwy.[11]; the creation of an Intermodal Transportation Center ["ITC"] for bus connection and short-term public parking also east of Aviation Blvd; and the development of and connection of all of the aforementioned ground improvements with an automated people mover ["APM"] along Century Blvd. [AR 59-60, 4266 (map), 25207 (map), 25215, 25223-25225.] [12]

Under their current configuration, the two parallel northern runways are 700 feet apart at their centerline and 550 feet apart asphalt to asphalt. [AR 15063-15064.]

[10] Terminals 1, 2 and 3 are located on the north side of the Central Terminal Area ["CTA"]. [AR 59.] The three terminals are configured in a "pier formation" and consist of aircraft gates as well as over 1,000,000 square feet of terminal and concourse space, including passenger processing, passenger holdroom, concessions, airline operations, and administrative space. [AR 59.] The best depiction of the impact of Alternative D's proposed relocation of the southernmost north runway 340 feet south upon Terminals 1, 2 and 3 can be seen on the photograph with runway overlay at AR 148.

[11] The proposed GTC of Alternative D, east of Aviation Blvd. and north of Century Blvd,. became known as "Manchester Square". [AR 60.] The major components of the proposed GTC at Manchester Square included 7515 parking stalls; E-kiosk flight check-in; curbside vehicular interface; Skycap baggage check-in; first level passenger security screening; and APM access to and from the passenger terminals. [AR 61.]

[12] "APMs" are technically defined as "fully-automated (driverless) fixed-guideway grade-separated/exclusive right-of-way transit systems." [AR 62.]

During the initial and supplemental review periods on the LAX Master Plan, a total of 19,401 individual public comments were received, of which 5,419 were in writing. [AR 27886-27887.] Among the thousands of written public comments received were those authored by petitioner City of Inglewood ["Inglewood"], petitioner City of Culver City ["Culver City"] and petitioner Alliance for Regional Solution to Airport Congestion ["ARSAC"]. [See, *e.g.*, AR 50147-50188 (Inglewood), 51273-51295 (Culver City), 51553-51555 (ARSAC).]

The final EIR on the LAX Master Plan was published in April 2004, consisting of 39,440 physical pages across multiple volumes. [AR 24945-64385.] On September 29, 2004, Los Angeles proposed a Specific Plan for LAX[13], responding to a number of the concerns raised in public comments to the LAX Master Plan. [AR 304-342.]

The proposed 2004 Specific Plan divides LAX into three "Sub-Areas": the "Airside", "Landside", and "Northside", establishing zoning and use regulations anticipated in Alternative D of the LAX Master Plan. [AR 18, 319-325.] Most significantly, according to paragraph 7.H of the proposed 2004 Specific Plan, in pertinent part:

> "**Specific Plan Amendment Study.** [Los Angeles] shall initiate a complete LAX Specific Plan Amendment Study comprehensively addressing security, traffic, aviation activity and corresponding environmental analysis consistent with CEQA, in the following circumstances:
>
> **1.** Prior to seeking an LAX Plan Compliance determination for any one of the following Projects:
>
> **(a)** Development of the Ground Transportation Center, including baggage tunnel, associated structures and equipment;
>
> **(b)** APM 2 [Construction of the Automated People Mover] from GTC to CTA, including its stations and related facilities and equipment;
>
> **(c)** Demolition of CTA Terminals 1, 2 and 3;

[13] As required for all California cities, Los Angeles has a general plan. (Govt.C.§65300 *et seq.*) Los Angeles' general plan component devoted to long-term airport planning is designated the "LAX Plan". [AR 18-19.] (The "LAX Plan" component of the city's general plan should not be confused with the FAA-mandated "Master Plan" discussed at fn.5, *ante*.) The principal approvals being contested in this case are certain planning or "program-level" amendments to the LAX Specific Plan, and not direct construction or "project-level" authorizations.

(d) West Satellite Concourse and associated APM segments;

(e) North Runway re-configuration as contemplated in the Master Plan, including center taxiways; and

(f) on-site road improvements associated with only (a) and (b) above.... [14]

3. If the annual aviation activity analysis ... forecasts that the annual passengers for that year are anticipated to exceed 78.9 million. " [AR 19, 264, 319.]

On December 7, 2004, Los Angeles' City Council approved the Master Plan and the Specific Plan, and at the same time, certified the 2004 Final EIR adopting Alternative D. [AR 18.] Los Angeles posted its CEQA Notice of Determination ["NOD"] the following day. [*Id.*]

The 2005 Lawsuits and the 2006 Stipulated Settlement

Despite the Specific Plan's proposed safeguards of a Specific Plan Amendment Study to be conducted before implementing any of the more controversial portions of Alternative D, four state court lawsuits were filed against Los Angeles, each seeking to set aside Los Angeles' adoption of the 2004 LAX Master Plan and Specific Plan [AR 376-377.] One lawsuit was filed by the City of El Segundo (LASC BS094279); one lawsuit was filed jointly by the City of Inglewood, the City of Culver City, and the County of Los Angeles (LASC BS094320); one lawsuit was filed by ARSAC (LASC BS 094359); and one lawsuit was filed by the Federation of Hillsides and Canyons Association ["FHCA"] (LASC BS094503), each alleging violations of CEQA.[15] All four CEQA lawsuits were consolidated and transferred to Riverside County for adjudication (RCSC 426822.) [AR 376-377.]

While these lawsuits were pending, in May 2005, the FAA approved the Final EIS. [AR 18.] In July 2005, the cities of El Segundo, Inglewood, Culver City and the County of Los

[14] This set of proposed post-study developments/demolitions was known as the "Yellow Light Projects", the study of which and ensuing environmental review are the subject matter of the pending litigation. [AR 4274.] The term "Yellow Light Projects" was used to differentiate these components of the adopted Master Plan from the less controversial and generally less ambitious Master Plan components known as the "Green Light Projects". [AR 471, 1490.]

[15] A copy of each of the two January 6, 2005 CEQA petitions associated with the petitioners in the instant action can be found in the instant court file attached to responses to notices of related case filed by Los Angeles on June 5, 2013 (Inglewood/Culver City) and on June 12, 2013 (ARSAC), respectively.

Angeles filed federal lawsuits against the FAA and the United States Department of Transportation under NEPA and the Clean Air Act, similarly seeking to restrain the approval of the LAX Master Plan (Ninth Circuit Court of Appeals, 05-074051 and 05-74252)[16]. [AR 380; 384.]

On February 17, 2006, all six federal and state lawsuits were resolved by their litigants pursuant to a single Stipulated Settlement. [AR 376-417.] The instant consolidated CEQA lawsuit originates from the performance of the terms of that Stipulated Settlement.

Subject to the terms of the Stipulated Settlement, each of the pending state and federal petitioners/plaintiffs dismissed their legal challenges to Los Angeles' approval of its Master Plan. [AR 384.] In return for Master Plan approval, the approved LAX Specific Plan Amendment Study safeguards were augmented as follows:

1. The Specific Plan Amendment Study [" SPAS"] process would commence within 60 days; with Los Angeles to make a "good faith effort" to complete a first phase of contractor selection/budget/scope of work within six months. [AR 387.]

2. Upon completion of the first phase, Los Angeles to make a further "good faith effort" to complete the SPAS study within the following two years, "in a manner that is designed for practical capacity of 78.9 million annual passengers while enhancing safety and security, minimizing environmental impacts on the surrounding communities, and create conditions that encourage airlines to go to other airports in the region...." [AR 387.]

3. The SPAS study to focus upon "**[p]otential alternative designs, technologies and configurations for the LAX Master Plan program that would provide solutions to the problems that the Yellow Light Projects were designed to address consistent with a practical LAX capacity of 78.9 MAP (the 'Alternative Projects')**". [AR 387.]

4. The SPAS study would *not* need to consider Specific Plan section 8.H.(d) -- the proposed West Satellite Concourse and its associated Automated People Mover ["APM"] segment. [AR 387.]

5. The SPAS study to focus upon **environmental impacts and "comparable level of" mitigation measures associated with "replacement" of the remaining five**

[16] At the time, NEPA actions filed under the then-existing language of the Federal Aviation Act, challenging funding decisions of the FAA Administrator, were deemed to have original jurisdiction in the federal appellate courts. (See, *e.g. Nat'l Parks and Conservation Ass'n v. FAA* (10th Cir. 1993) 998 F.2d 1523, 1527-28.)

"Yellow Light Projects"; *i.e.*, (i) the proposed development of the Ground Transportation Center ["GTC"], including baggage tunnel, associated structures and equipment; (ii) the proposed construction of the Automated People Mover ["APM"] between the GTC and the Central Terminal Area ["CTA"]; (iii) the proposed demolition of the existing CTA; (iv) the proposed north runway re-configuration including central taxiway; and (v) on-site road improvements associated with the GTC and the APM, **"with the Alternate Projects".** [AR 387.]

6. **Los Angeles to have "the discretion to determine the appropriate methodology" to conduct the SPAS study, prepared "pursuant to CEQA",** in consultation with the FAA and compliant with federal environmental laws. [AR 388.]

7. Environmental field traffic impacts for newly proposed alternative projects to be conducted in consultation with affected local jurisdictions and Los Angeles' own transportation division; Los Angeles to provide the list of intersection/roadways for proposed analysis with the right of petitioners to add a maximum of 15 additional intersections to the traffic study. [AR 388.]

8. Any ensuing Specific Plan Amendment approved by Los Angeles' City Council to seek FAA review for approval of any changes to the LAX Airport layout plan [see fn. 5, *ante*]. [AR 388.]

9. Airport security experts on newly proposed alternative projects to be selected by Los Angeles in consultation with petitioners. [AR 388.]

10. A SPAS Advisory Committee to be created, consisting of members of the cities of Los Angeles, El Segundo, Inglewood, Culver City, the County of Los Angeles, and ARSAC for consultation during "each significant step" of the SPAS process. [AR 388.]

The Stipulated Settlement recites the FAA's Record of Decision on approval of the EIS, in which the FAA determined that **redirection of passenger traffic from LAX to other regional airports "is accomplished by restricting the overall availability of gates where passengers will board and exit an aircraft"**. [AR 385.] The Stipulated Settlement notes that "**LAX currently has 163 total passenger aircraft gates** available for loading and unloading...." [*Id.*] [Emphasis added.]

In order to achieve the regional solution strategy articulated by the FAA, the Stipulated Settlement mandates that Los Angeles "will operate no more than 163 passenger gates at LAX throughout the terms of this Settlement." [AR 385.] Further, the Stipulated Settlement commands Los Angeles, commencing in 2010, to "discontinue passenger operations at two narrow body equivalent gates ["NBEG"] each year until passenger gates at LAX are reduced to "no more than

153 passenger gates". [AR 386.] The stipulated requirement to reduce LAX passenger gates to 153 gates, however, was not to take effect unless total passenger operations at LAX exceeded 75 MAP. [*Id.*][17]

The Stipulated Settlement further obligates Los Angeles to invite the FAA, the Southern California Association of Governments ["SCAG"], five Southern California counties and regional airport operators to participate in a regional airport working group to make recommendations "to achieve a regional distribution of air traffic demand". [AR 389.] Los Angeles is required under the Stipulated Settlement to develop an annual regional strategic planning initiative to encourage growth of passenger and cargo activity at Ontario International Airport and Palmdale Regional Airport. [*Id.*]

Los Angeles' airport division is further directed to join a working group with its own City Council District 11 and ARSAC to make recommendations for fielding and responding to concerns of airport neighbors. [AR 389-390.] Los Angeles is also obligated to study feasible methods to connect LAX to a proposed Los Angeles County Metropolitan Transit Authority ["MTA"] "Green Line"extension. [AR 391][18]. An exhibit attached to the Stipulated Settlement, *inter alia*, requires Los Angeles to initiate and fund a "Source Apportionment Study" to measure LAX-related air emissions. [AR 410-411.]

Enforcement of the terms of the Stipulated Settlement was vested in the Riverside County Superior Court. [AR 391.] The Stipulated Settlement set out specific default, cure, mediation and judicial enforcement terms and conditions. [AR 391-393.] The passenger gate limitations of the Stipulated Settlement imposed upon Los Angeles continue through the year 2020. [AR 383.]

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[17] The Stipulated Settlement also involved $180 million in "funding commitments" from Los Angeles to local jurisdictions from 2008 through 2015, principally for soundproofing and land acquisition. [AR 724-734.]

[18] At the time of the Stipulated Settlement, and currently, MTA's "Green Line" light rail service extends from Redondo Beach to Norwalk, with an existing station at Imperial Hwy. and Aviation Blvd. [http://www.nextbus.com/googleMap/?a=lametro-rail&r=803]

The balance of the Stipulated Settlement expressly expired by its own terms on December 31, 2015.[19] [AR 383.]

On August 15, 2007, Los Angeles approved amendment of the LAX Specific Plan by eliminating the proposed West Satellite Concourse and its associated APM segments as an amendment study topic, in accordance with the terms of the Stipulated Settlement. [AR 346-347, 15062-15063.] [20]

The SPAS Alternatives Study -- 2008 NOP

Within three weeks of completion of the Stipulated Settlement, the SPAS Advisory Committee, including each of the petitioners in this CEQA action, met to discuss the requirements of the settlement and the scope of the task at hand. [AR 1168-1183.] Discussion and analysis of the alternative of moving the northernmost LAX runway 340 feet farther north routinely appears in Advisory Committee materials as early as June 1, 2006, nearly ten years ago. [AR 1219-1221, 1272-1276, 1297-1299, 1392-1393.] Ground transportation access alternatives have been part of Advisory Committee discussions for at least as long. [See, *e.g.*, AR 1224-1231, 1301-1317.]

Details of numerous north runway aircraft incursions were provided to the SPAS Advisory Committee. [AR 1293.] Petitioner Inglewood, petitioner ARSAC and respondent Los Angeles each submitted proposed diagrams of their proposed alternatives to the Yellow Light Projects of Alternative D. [AR 1436-1438.] The litigants proposed extensive, but not widely divergent, ground transportation alternatives. [*Id.*] **Inglewood proposed moderate runway**

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[19] The expiration of the provisions of the Stipulated Settlement beyond terms relating to passenger gate limitations presents an interesting threshold question. While Los Angeles appears no longer obligated to satisfy any non-gate provisions of the Stipulated Settlement, the contract does provide very specific context, scope and direction underlying the administrative approvals currently before the court.

[20] In addition to the West Satellite Concourse being reclassified as a "Green Light Project" [AR 471], further "Green Light Projects" which could proceed to project level analysis without further study at the Master Plan/Specific Plan level included proposed employee parking west of the airfield (in the approximate location of the earlier proposed terminal site under the 2001 EIR/EIS); extension/ modernization of the Tom Bradley international terminal; development of a Consolidated Car Rental facility north of 98th St.; some alterations to the south airfield including the addition of a centerfield taxiway; an Intermodal Transportation Center ["ITC"] at Aviation Blvd. and Imperial Hwy.; and further employee parking between Aviation Blvd. and the I-405 Freeway. [AR 1490.]

reconfiguration of the northernmost runway 100 feet to the north. [AR 1437, 1450.] **ARSAC proposed no northern runway reconfiguration**. [AR 1436, 1449.] **Los Angeles proposed moving the northernmost runway 340 feet to the north**. [AR 1438, 1451.]

Beginning March 16, 2006, Los Angeles also sponsored numerous public meetings and workshops. [See. *e.g.*, AR 65-67, 422, 1212, 1241, 1322.] Public presentation of possible ground transportation alternatives to the Yellow Light projects were the discussion topics as early as August 23, 2006 [AR 783-798]; discussions of runway safety risk were publicly presented beginning October 25, 2006 [AR 912-1045]; and presentation of alternate north runway configurations, **including the concept alternative of moving the northernmost runway 340 feet to the north** [AR 1106], was discussed beginning December 6, 2006 [AR 1048-1161].

As part of the SPAS Alternative Study process, Los Angeles retained a number of independent experts to make recommendations on airfield safety. [AR 109.] The first commissioned report, received from DMJM-AECOM in March 2007 through a peer review process of thirteen airport industry experts, concluded:

> "The Peer Review Group evaluated the north airfield from the perspectives of operational safety, airfield balance, and efficiencies. They found that there is a definite need for improvements to the north airfield, that **doing nothing is not an option**, and massive terminal demolition is not feasible. The Group concluded that **shifting the northerly runway 340 feet northward offers maximum safety, balance, and efficiency advantages. This option provides for new large aircraft operations, does not impact the apron/gate terminal infrastructure, prevents fewer construction phasing impacts, and provides for a full-length center taxiway to promote safe and efficient aircraft landing and takeoff operations**." [Emphasis added.] [AR 109, 4953.]

The second commissioned study was received in May 2007 from International Aviation Management Group, Inc., an aviation planning firm headed by a professor at Embry Riddle Aeronautical University. This study determined that **the two alternatives "that provided an additional runway separation of 340 feet ... were the most appropriate for further study, while the least appropriate alternatives were the no additional separation and the 100-foot south concepts.**" [AR 109, 4953-4954.]

A third commissioned study, conducted by URS Corporation, "a large multi-disciplinary worldwide aviation-consulting engineering firm", was also returned in May 2007. [AR 109.] The study recommended, based upon FAA standards, "pursuing **relocating** Runway 6L/24R

[**the northernmost runway**] **350 feet northerly** and increasing its runway takeoff length." [AR 109, 4954.]

A fourth study was submitted by 22 members of a committee of the Airline Pilots Association ["ALPA"], an organization representing over 60,000 airline pilots. [AR 120.] The ALPA committee recommended that the northernmost runway "be relocated northward to provide 623 feet, but not less than 550 feet, of runway to taxi separation". [AR 109, 4954.]

The fifth and final study, also delivered in May 2007, was conducted by the Washington Consulting Group, Inc., an expert in air traffic management systems, working with a panel of subject matter safety risk experts, to identify and prioritize airfield operational hazards, associated risks and mitigating strategies. [AR 120, 4954.] The consultant used a single benchmark to reach its recommended safety conclusions -- **relocation and extension of the northernmost runway 340 feet to the north**. [AR 120-121, 4954-4956, 4958.]

By the end of 2007, a member of Los Angeles' airport executive board, BOAC, noted that "five studies have told us that we have safety issues on the north [runway] side and we need to fix it". [AR 15312.] Citing the warnings of a former chairperson of the National Transportation and Safety Board and former Administrator of the FAA, the BOAC board member stated that "... the geometry of... the airfield has to be fixed and it has to be fixed so that in the event of human error we have done everything that we can do to prevent an accident". [*Id.*] According to the BOAC director: "I believe that it is unconscionable that it has taken us as long as it has... given everything we have known for as long as we have known it." [*Id.*]

To consider alternatives to the Yellow Light Projects, the SPAS Advisory Committee met on *twenty separate occasions* between March 9, 2006 and March 12, 2008, when Los Angeles released its CEQA Initial Study. [AR 1166, 1168-1455.] Over that same time period, there were *an additional twelve days of public hearings* for the same purpose. [AR 422, 418-1161.]

Accordingly, and in furtherance of the Stipulated Settlement to study alternatives to the five remaining Alternative D "Yellow Light Projects" using a CEQA protocol [AR 150162], on March 12, 2008, Los Angeles issued its Notice of Preparation ["NOP"], advising of its intention to prepare a draft EIR on the SPAS alternatives study. [AR 15060-15127.]

The 2008 NOP indicates that "**the current northern airfield was designed in the 1960s" for a fleet of smaller aircraft** known as "Design Group IV", though the airfield is being currently used for larger aircraft known as "Design Group V", the latter including the Boeing B747 and the Airbus A340. [AR 1324-1331, 15064.] The NOP further indicates that an even larger group of aircraft was then in production and testing, designated as "Design Group VI", including the Boeing B747-8 and the Airbus A380. [*Id.*] The "new generation of wide-bodied" Group VI aircraft were noted to "have **significantly wider wingspans, taller tail sections and longer fuselages**" than the earlier design groups. [*Id.*] [21]

Subject to the requirement of the 2008 LAX Specific Plan to consider further alternatives, as further augmented by the Stipulated Settlement, the approved LAX Master Plan Alternative D northern runway reconfiguration proposed move the southernmost of the two runways 340 feet to the south, **increasing runway centerline separation to 1040 feet**, with the **addition of a parallel centerfield taxiway**; all designed "to provide a physical solution that would **reduce the risk of runway incursions, enhance the safety of aircraft operations at LAX, and provide a better balance in operations** between the North Airfield and the South Airfield". [AR 15064.]

The 2008 SPAS NOP identified four conceivable options to the "Yellow Light" Master Plan Alternative D runway reconfiguration, including (i) moving the southernmost of the two north runways 100 feet to the south, with a new parallel centerfield taxiway; (ii) keeping the runways in their current configuration; (iii) moving that northernmost runway 100 feet to the north, with a new parallel centerfield taxiway; or (iv) **moving the northernmost of the two runways 340 feet to the north,** with a new parallel centerfield taxiway. [AR 15065-15066.]

Beyond possible north airfield reconfiguration, the SPAS NOP also proposed to study the projected demolition of Central Terminal Area terminals 1, 2 and 3, necessitated by Alternative D's proposed relocation of the southernmost of the two northern runways 340 feet to the south. [AR 15066.] Master Plan Alternative D had also approved a Ground Transportation Center ["GTC"] for the drop-off and pick-up of passengers at the northeast intersection of Century Blvd. and Aviation Blvd. which, in conjunction with the Intermodal Transit Center ["ITC"], was designed to solve both traffic and security problem created by the proposed elimination of the

[21] Design Group VI aircraft began operating at LAX in 2008. [AR 58.]

CTA for public vehicular access. [AR 15067.] NOP conceptual alternatives, in addition to possibly reconfiguring and relocating the GTC and ITC, also included an additional passenger "curb front" drop-off and pick-up on the east side of what is now Terminal 1. [AR 15067-15068.] [22]

Conditionally approved Master Plan Alternative D also anticipated an Automated People Mover ["APM"] along the south side of Century Blvd., intending to connect passengers between the proposed GTC east of Aviation Blvd. and the CTA concourse/terminals west of Sepuleveda. [AR 15069.] The NOP conceptual alternatives included finding modified APM routes depending upon the location of the future ground transportation alternatives selected. [*Id.*] [23]

Consistent with the terms of the Stipulated Settlement, Los Angeles' 2008 NOP clarifies the purpose of the forthcoming EIR to be a study of "comprehensive project alternatives" to the Yellow Light Projects. [AR 15070.] **The 2008 NOP, *inter alia*, expressly reiterated and photographically depicted the conceptual alternative of moving the northernmost runway 340 feet farther north.** [AR 15070-15071, 15078, 15085.]

The associated CEQA Initial Study found potentially significant impacts associated with aesthetics, air quality, biological resources, cultural resources, hazardous materials, hydrology and water quality, land use and planning, noise, public services, transportation/circulation, and utilities; all to be explored and analyzed in detail in a draft EIR. [AR 15086-15127.]

The SPAS Alternatives Study -- 2010 RNOP

Two NOP public meetings then followed in May 2008, within the statutory scoping period. [AR 15061.] The materials presented by Los Angeles to the public once again identified five separate potential north runway configurations: (i) no change; (ii) the southernmost of the two north runways to move 100 feet south; (iii) the southernmost of the two north runways to

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[22] The most common primary means of passenger ground access to/from LAX are by private vehicle (54%); rental car (17%); taxi (8%); and door-to-door shuttle (8%). The least common means of passenger ground access to/from LAX is by public bus or train (1%). [AR 595.]

[23] The final "Yellow Light Project", proposing on-site road improvements providing access to the GTC or the APM, was deemed dependent upon the location, if any, of the related proposed ground transportation projects. [AR 15069.]

move 340 feet south (*i.e.*, the Alternative D "Yellow Light" project); (iv) the northernmost runway to move 100 feet north; and (v) **the northernmost runway to move 340 feet north**. [AR 15343-15347, 142004-142009.] As envisioned by Los Angeles and as previously concluded in the 2003 EIR/EIS, the movement of the southernmost runway south toward the passenger terminals would require the removals of Terminals 1, 2 and 3; while the movement of the northernmost runway farther north would allow Terminals 1, 2 and 3 to remain in place. [AR 15339.]

At the time of the May 2008 scoping meeting, consistent with the Stipulated Settlement, Los Angeles defined the "problems" associated with the existing north airfield at LAX that Alternative D was designed to resolve, using the following bullet points:

- "**LAX does not have airfield that is designed for the largest aircraft currently in service** (Group VI aircraft)."
- "**The [current] North Airfield design requires** specially designed, or **nonstandard, operating procedures**. Such procedures reduce airfield safety and increase aircraft delay, resulting in greater emissions of air pollutants and causing passenger inconvenience."
- "**The outdated taxiway design creates** a situation where landing aircraft might move in the path of departing aircraft (incursion) and increase the **risk of collision**."
- "**The North Airfield runways are too short** for larger aircraft used for long-haul flights, requiring those aircraft to taxi to the South Airfield, resulting in less efficient operations and disproportionate impacts." [AR 15341.] [Emphasis added.]

At the 2008 NOP scoping meeting, Los Angeles presented the five possible north runway alternatives then being considered for the SPAS Alternatives Study. [AR 15348.] Under the option **proposing to relocate the northernmost runway 340 feet north**, Los Angeles suggested that the current terminal layout could maintain its existing design open to vehicular traffic; adding off-airport transportation centers to better accommodate passenger drop-off and pick-up; along with the conditionally approved LAX Master Plan APM to transport airport users between off-airport transportation areas and the passenger terminals. [*Id.*]

On June 17, 2008, as part of the scoping process, Inglewood/Culver City specifically addressed the NOP's proposed study of relocating the northernmost LAX runway 340 feet to the north. [AR 6191-6192.] Inglewood/Culver City urged Los Angeles to not proceed or otherwise render any safety conclusions regarding the LAX northern runways until the results of a pending North Airfield Safety Study ["NASS"] could be completed. [AR 6191.]

Inglewood/Culver City further urged that the draft EIR study instead proposed to relocate the northernmost runway be moved 100 feet north, rather than 340 feet, in order to avoid modification of existing aircraft noise contours and the current FAA "Runway Protection Zone" ["RPZ"]. [AR 6192.][24] Finally, on behalf of all of the petitioners in this case including ARSAC, Inglewood/Culver City offered a set of jointly prepared "guiding principles" it wished Los Angeles to consider during its environmental review of the study of "Yellow Light Project" alternatives. [AR 6189, 6193.]

According to petitioners' joint guiding principles, in pertinent part: "**All [Yellow Light Project] alternatives should be subject to a full and fair evaluation** in the SPAS DEIR and [Los Angeles] to remain open to options that would avoid or mitigate impacts to its neighbors, **taking care not to prematurely select a preferred alternative.**" [AR 6193.] [Emphasis added.] In terms of promoting regional solutions, petitioners' joint guiding principles declare:

> "**[Los Angeles], FAA and the Petitioners all agree that limiting the number of gates at LAX will promote efficient passenger operations and encourage other airports in the Los Angeles basin to increase capacity to serve aviation demand. Accordingly, the long term success of the regional approach to serving aviation demand depends on maintaining appropriate gate constraints at LAX.**" [AR 6193.]

Following the scoping meetings, Los Angeles honored the recommendation of petitioners to wait until the NASS study could be completed. [AR 15131.] That study was completed on February 19, 2010. [AR 2889-2991.][25] During this hiatus, Los Angeles acquired a nearby private parking facility; conducted an analysis of the proposed Consolidated Rental Car Facility ["CONRAC"]; did further analysis of traffic under a scenario where the Central Terminal Area would remain open to private vehicles; and reviewed an updated 2009 MTA light rail plan. [*Id.*]

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[24] A Runway Protection Zone ["RPZ"] is an FAA term for a trapezoidal area at the approach end of a runway designed "to enhance the protection of people and property on the ground". [AR 492; see also http://www.faa.gov/documentLibrary/media/Advisory_Circular/draft_150_5300_13a.pdf .] Currently, the north LAX airfield RPZ includes eight single-family homes, one multi-family residential development, and 29 commercial properties. [AR 1498-1499, 1513.]

[25] The NASS study concluded that the northern runways remained "extremely safe" at 78.9 MAP, but that new configurations to the north airfield would "substantially reduce" the risk of runway collision. [AR 1476, 4956.] The FAA was highly critical of the assumptions, methodology and conclusions of the NASS report. [AR 2981-2988, 4956-4957; see fn. 94, *post.*]

Then, as noted at the outset of this opinion, additional north runway incursions compelled the Administrator of the FAA to rebuke LAX for the "vulnerabilities and inefficiencies" of its north airfield configuration. [AR 115282-115283.] According to the FAA Administrator, in pertinent part:

> **"The circumstances behind these incidents were all too familiar. The March 6 [2010] incursion, like many before it, occurred because there is no physical buffer separating arriving aircraft from aircraft that are taking off on the inner runway. Moreover, the March 16 incursion, underscored the difficulty of operating larger aircraft on the cramped north airfield.... [¶] ... The only complete solution for LAX's safety and efficiency needs must include airfield geometry designed to accommodate modern aircraft."**
>
> "I am concerned the most recent North Airfield Safety Study (NASS) will be used as a reason not to pursue this solution. That would be a serious mistake. The FAA conducted a detailed review of the study and identified several critical flaws in the study's assumptions, methodology and conclusions. Enclosed document outlines those technical concerns."
>
> "I flew into LAX hundreds of times during my career as an airline pilot. **I can say from personal experience that the north airfield safety and efficiency would be greatly improved by further separating the two runways and building a center taxiway between them. Multiple expert studies over the past several years have reached the same conclusion.** A similar reconfiguration of the LAX South airfield has eliminated the most serious runway incursions and reduced all types of incursions by nearly 80 percent."
>
> "The latest NASS recognizes that increasing runway separation and building a center taxiway would reduce the chances of a runway collision. But surprisingly, the study's summary conclusions downplay that finding; suggesting the airfield is safe enough now. The data and the two incursions earlier this month suggest otherwise. **The status quo is not good enough for the FAA, and the city of Los Angeles should not view it is good enough for the traveling public. Everything possible must be done to make the north airfield as safe as it can be...."**
>
> "The north airfield reconfiguration would address equally important issues of standards and efficiency. **The present north airfield configuration does not meet design standards for many of the large aircraft** that use the airport. This has forced the FAA to implement a series of workarounds to manage these aircraft. These workarounds add an unnecessary level of complexity to an already demanding operating environment."
>
> "In addition, **the north airfield reconfiguration would relieve congestion** caused by the outdated design, thus improving efficiency at one of the world's busiest airports. Air traffic controller and pilot interviews that were conducted as part of the latest NASS simulations clearly demonstrate that increased runway separation and a center taxiway provide substantial efficiency and flexibility benefits."

> "I urge you, along with the city of Los Angeles and the Los Angeles Board of Airport Commissioners, to reconfigure the north airfield. The FAA stands ready to assist the city and Los Angeles World Airports to address the known safety risks, improve efficiency, and meet design standards on the LAX north airfield. " [AR 2979-2988, 115282-115283.] [Emphasis added.]

Two additional SPAS Advisory Committee meetings were held. [AR 1166, 1456-1520.] Based upon the findings of the NASS study, the SPAS Advisory Committee was advised that relocating the northernmost runway 100 feet to the north would decrease the likelihood of "fatal runway collision" by 40%; but would still result in restricted north airfield operations for Design Group V and Design Group VI aircraft. [AR 1505.] The proposed relocation of the northernmost runway 340 feet to the north would decrease the likelihood of "fatal runway collision" by 55%. [AR 1508.] The Advisory Committee was further informed that a proposed 300-foot additional runway separation would accommodate Design Group VI aircraft usage in "normal" weather conditions, while a 400-foot additional runway separation would accommodate Design Group VI aircraft usage in all conditions. [AR 1505, 1508.]

The SPAS Advisory Committee was further informed that the relocation of the northernmost runway 100 feet to the north or more would remove all single-family residential dwellings from inside the FAA's current Runway Protection Zone ["RPZ"]. [AR 1506, 1514-1519.] A relocation of the northernmost runway between 100 feet and 300 feet to the north would also remove the one multi-family residential unit from the RPZ. [*Id.*] The Advisory Committee was told that each proposed northerly movement of the northernmost LAX runway would incrementally increase the number of commercial parcels within the RPZ. [*Id.*]

According to the information provided to the Advisory Committee, each proposed relocation of the northernmost runway **would require the realignment of Lincoln Blvd**. [AR 1508.] In addition, a storm water drainage channel along the northern perimeter of LAX known as the "Argo Ditch" would require between $23 million and $161 million in modifications; depending upon the proximity of the northernmost runway relocation to the ditch. [*Id.*]

The Advisory Committee was presented with revised potential SPAS study options of "no project" (*i.e.*, implementation of 2003 Master Plan Alternative D) or, moving the northernmost runway 100 feet north, **200 feet north, 300 feet north or 400 feet north**. [AR 1509.]

On October 10, 2010, Los Angeles revised its NOP and reissued the document and the accompanying Initial Study as a Revised Notice of Preparation ["RNOP"]. [AR 15128-15201.]

Specifically, with respect to north airfield configuration, proposed RNOP options included (i) relocating the southernmost north runway 340 feet to the south, with a new parallel center taxiway (*i.e.*, Alternative D); (ii) relocating the southernmost north runway 100 feet to the south, with a new parallel center taxiway; (iii) relocating the northernmost runway 100 feet to the north, with a new parallel center taxiway; (iv) **relocating the northernmost runway 200 feet to the north**, with a new parallel center taxiway; (v) **relocating the northernmost runway 300 feet to the north,** with a new parallel center taxiway**; and** (vi) **relocating the northernmost runway 400 feet to the north,** with a new parallel center taxiway. [AR 15133-15155.][26]

Following the issuance of the RNOP, in November 2010, Los Angeles conducted two additional public scoping meetings. [AR 142017-142043.]

The 2012 SPAS Alternative Study Preliminary Report

Los Angeles issued its preliminary SPAS report on July 27, 2012. [AR 10.] The 291-page SPAS report [AR 10-301] was accompanied by 3065 pages of technical appendices, including various scientific studies. [AR 302-367.] From the outset, the SPAS report identified its purpose was "**to identify potential LAX Specific Plan amendments consistent with the requirements of the LAX Specific Plan and the LAX Master Plan Stipulated Settlement**". [AR 18.][27]

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[26] The 340-foot additional runway separation distance previously suggested as a SPAS study alternative for the northernmost runway was "dropped from further consideration" in the 2012 RNOP alternatives, as a consequence of an interim revised FAA analysis increasing proper separation distances for Design Group VI aircraft. [AR 144-145.] These engineering re-recalculations were soon thereafter further refined again by FAA. [See fn. 32, *post.*]

Each of the RNOP runway relocation options proposes an increase in runway width and length, in varying dimensions, all designed to accommodate the dimensions and engineering needs of larger aircraft; and to minimize exposure of residential uses within the associated RPZ. [AR 15133-15155; see fn. 24, *ante.*]

[27] From purely an administrative land use planning perspective, the purpose of the preliminary 2012 SPAS Alternative Study was to amend the LAX Specific Plan to the extent of any alternatives adopted; then to administratively update collateral municipal planning and zoning documents to conform to any newly adopted Specific Plan amendments. [AR 55, 265-268, 5988-5990.] Additional possible local land use planning actions are identified at AR 4441.

The SPAS Preliminary Report identifies **nine alternatives** to the "Yellow Light" projects preserved for further study in the Stipulated Settlement. [AR 20.] As summarized in the report, in pertinent part:

> "This SPAS Report evaluates each alternative and potential LAX Specific Plan amendments. The SPAS EIR analyzes the potential environmental impacts of the nine alternatives and proposes mitigation measures to address significant environmental impacts in compliance with CEQA." [AR 20.]

The nine alternatives to the "Yellow Light" projects identified in the 2012 preliminary SPAS study report are as follows:

> **Alternative 1.** The preliminary SPAS Study Alternative 1 proposes, *inter alia*, to **move the northernmost runway to 260 feet north**; extend the southernmost north runway; **add a centerfield taxiway**; add a new Terminal "0" east of what is now Terminal 1; develop an Intermodal Transportation Center ["ITC"] at 98th St. west of Airport Blvd.; construct an elevated, dedicated busway link to the terminals along 98th St.; **accommodate "the relocation of Lincoln Blvd., a portion of which would be below grade and/or tunneled"**; and modify the **Argo Drainage Channel**, which would be "**fully covered**". [AR 22, 24, 174, 193, 194, 202, 4277, 4278 (map -- proposed Lincoln Blvd. realignment in purple).]
>
> The proposed 260-foot additional runway separation of Alternative 1, once sufficiently widened, would satisfy FAA runway design standards for Design Group V aircraft; and sufficient separation for Design Group VI aircraft in good visibility conditions. [AR 193, 198.]
>
> Under Alternative 1, the entire 9857-foot length of the currently open, unlined **Argo Drainage Channel** would be **converted to a concrete box culvert** to support the potential weight of an aircraft. [AR 196.] **Lincoln Boulevard** would be **relocated northward and tunneled over approximate 540 linear feet** to be compatible with the FAA Object Free Area ["OFA"] requirements. [*Id.*] [28]

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[28] A Runway Safety Area ["**RSA**"] is an FAA-defined safety geometric surrounding a runway designed to enhance the safety of "aircraft which undershoot, overshoot, or veer off the runway", providing accessibility to firefighting and rescue equipment. [AR 4942, 4944, 4946.] See also, http://www.faa.gov/documentLibrary/media/Advisory_Circular/draft_150_5300_13a.pdf

A Runway Object Free Area ["**OFA**"] is an FAA-defined area surrounding a runway that must be cleared of fixed objects, not including taxiing or holding aircraft, intended to enhance operational safety. [*Id.*]

A Runway Obstacle Free Zone ["**OFZ**"] is an FAA-defined geometric that precludes all objects, including taxiing and holding aircraft, intended to provide "physical visual clearance for runway operations and missed approaches". [*Id.*]

The **inclusion of a centerfield parallel taxiway would enable aircraft to taxi and hold between the two northern runways without penetrating OFA and RSA clearance zones** surrounding each runway. [AR 199.] In addition, proposed Alternative 1 runway extensions would **permit more departing aircraft holding areas to improve the ability of the traffic control tower to better sequence departures**. [*Id.*] Finally, the proposed relocation of the landing approach for the northernmost runway under Alternative 1 would **remove all existing residential development from the flight path** RPZ. [*Id.*] [29]

Unlike the conditionally approved Alternative D under the LAX Master Plan which proposed to reload all private vehicles currently traveling to and parking within the CTA onto facilities onto off-airport streets, the adoption of SPAS Alternative 1, by retaining CTA roadways and airport curb-front for private vehicles, supplemented by new parking and ground transportation facilities outside the CTA for commercial and shuttle vehicles, was projected to *directly* result in only one significantly impacted off-site traffic intersection, compared to eleven under Alternate D. [AR 202, 218-220.]

Alternative 2. The preliminary SPAS Study Alternative 2 proposes, *inter alia*, to **leave the northern runways "as is"**, with **no centerfield taxiway**, but with the addition of "high-speed runway exits"; requiring no modification of the Argo Drainage Channel[30] or Lincoln Blvd.; and otherwise making no terminal and gate modifications. [AR 22, 26, 214, 216, 4277, 4280 (map).]

Alternative 2, proposing no runway relocation and no centerfield taxiway, was deemed insufficient to adequately land or maneuver larger Design Group V or Design Group VI aircraft; "**would not fully address many of the existing airfield hazards** associated with the north airfield, **including incursions and risk of collision, and would not allow pilots to see the end of the runway**"[31]; and **would continue to require aircraft to fly over residential dwellings** within the RPZ. [AR 214-215.]

A Runway Protection Zone ["**RPZ**"] as discussed at fn. 24, *ante*, is an FAA-defined trapezoidal area at the take-off and approach end of each runway designed "to enhance the protection of people and property on the ground". [*Id.*]

[29] From a security perspective, locating the northernmost runway closer to the LAX perimeter fence and adjoining public roadways would increase the vulnerability of the airport to "low risk" threats, while the proposed **tunneling of Lincoln Blvd. below grade was deemed to "enhance security** by reducing the 'field of fire' for any potential attackers using rocket propelled grenades (RPGs)" or firearms. [AR 201.] It should be clarified that Westchester Pkwy. does *not* mark the northern perimeter of LAX; but in fact both sides of Westchester Pkwy. from the Westchester business district to Pershing Dr. are located within LAX boundaries. [AR 4470, 4479-4480.]

[30] The current location of the Argo Drainage Channel is already in violation of the FAA's RSA, and would continue to be in violation under any identified runway relocation alternative. [AR 4277.] Accordingly *some* culvertization of the unlined Argo Drainage Channel will be required even if there is no project. [*Id.*]

[31] In terms of pilot visibility, **right angle taxiways "are the recommended standard** for all runway/taxiway intersections", except high-speed exit taxiways, providing "the best visual perspective to

Alternative 2 proposes the same solutions to ground transportation and access issues as Alternative 1. [AR 218.]

Alternative 3. The preliminary SPAS Study Alternative 3, the "no project" option, proposes exactly what was previously approved in the 2003 Master Plan Alternative "D" [AR 46] less the now-completed further study requirements; specifically, *inter alia*, **relocating the southernmost northern runway 340 feet south**; extending the northernmost runway; adding a new centerfield taxiway; **demolition of Terminals 1, 2 and 3 and the existing CTA parking structures**; replacement of the demolished terminals and parking structures with a new linear concourse; an ITC constructed at Aviation Blvd. and Imperial Hwy. with a pedestrian bridge to the MTA "Green Line'; a Ground Transportation Center ["GTC"] at the northeast corner of Century Blvd. and Aviation Blvd.; a consolidated rental car facility ["CONRAC"] at what is now Parking Lot C; and linking the access facilities to the passenger terminals by APM. [AR 22, 28, 220-221, 222-225, 4277, 4282 (map).] Under Alternative 3, there would be no further modification to the Argo Drainage Channel other than required under all alternatives, and no modifications to Lincoln Blvd. [*Id.*]

Alternative 4. The preliminary SPAS Study Alternative 4 proposes to **eliminate all of the "Yellow Light" projects**; and proceed only with the "Green Light" components of the LAX Master Plan, including, *inter alia*, improvements to the Tom Bradley international terminal, some runway improvements to the southernmost north runway, and the development of the CONRAC rental car center. [AR 23, 30, 227, 4284, 4286 (map).]

As with SPAS Alternative 2, Alternative 4 "**would not provide an airfield that is designed for [Design Group] V and [Design Group] VI aircraft**" including **failure to address "existing airfield hazards** associated with the north airfield, **including incursions and risk of collision**..."; would fail to address FAA's RSA requirements; and would **retain occupied residential dwelling units within the RPZ**. [AR 227.]

Alternative 5. The preliminary SPAS Study Alternative 5 proposes to widen and **move the northernmost LAX runway 350 feet to the north**, extended 604 feet west; lengthening the southernmost north runway; adding a new centerfield taxiway. [AR 23, 32, 175, 232-234, 4284, 4288 (map).] This "airfield and terminal only" alternative was **designed to "meet FAA design requirements to fully accommodate [Design Group] VI aircraft"** [32]; and was deemed **compatible with a variety of ground transportation**

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a pilot approaching an intersection with the runway to observe aircraft in both the left and right directions". [FAA Engineering Brief No. 75, at p.6, cited at AR 236; found at AR 109760-109788; see fn. 93, *post.*] A good illustration it is found at AR 142061.

[32] As noted in fn. 26, *ante*, FAA airport geometrics standards for Design Group VI aircraft were modified, so that the previous recommendation of 340 feet of additional runway separation used in Alternative D and in numerous iterations of northernmost runway SPAS Alternatives, were extended in the 2010 RNOP reiteration to 400 feet. This FAA-approved modification was short-lived, however, as the Design Group VI standards were once again revised to reflect the typically better-than-standard visibility conditions at LAX. Accordingly, to accommodate the even more recent FAA Design Group VI runway separation

access options. [AR 23, 32, 175, 232, 4284, 4288.] As stated in the preliminary SPAS study:

> "The configuration of the north airfield runways under Alternative 5 would fully meet FAA runway design standards for ADG V and ADG VI aircraft in all visibility conditions. **With greater separation distances** [from the other LAX north airfield alternatives], **this alternative would provide for a fully-[FAA]compliant airfield,** which would be an improvement over both current airfield operations and the LAX Master Plan north airfield configuration." [AR 236.] [Emphasis added.][33]

According to the preliminary SPAS Study, Alternative 5 **would require that the Argo Drainage Channel be "fully covered"**; and a segment of Lincoln Blvd. be to relocated, "with a portion below grade". [AR 175.] More specifically, improvements under Alternative 5 would **"[c]**over the entire length of the Argo Drainage Channel (9,857 linear feet) such that the weight of an aircraft can be supported within the RSA by converting the existing open unlined channel to an enclosed concrete box culvert" [AR 233]; and would "**relocate Lincoln Blvd. northward between Sepulveda Blvd. and Westchester Pkwy., and** depress the eastern and western portions of the road segment to be compatible with the object free area requirements for [the northernmost runway], which would **require approximately 765 linear feet of the eastern portion of the road segment to be tunneled**". [AR 233, 234, 4284, 4288 (map).] [Emphasis added.]

Alternative 5, by shifting the existing northernmost runway 350 feet to the north, and by extending that runway 604 feet to the west, would shift the existing aircraft approach RPZ to a point outside existing residential development. [AR 237.] As concluded by the preliminary SPAS Study:

> **"The [SPAS]Alternative 5 north airfield configuration would provide solutions to all of the problems the LAX Master Plan north airfield reconfiguration was designed to address. In fact, with greater separation distances, Alternative 5 would fully meet FAA runway design standards for [Aircraft Design Group] VI aircraft, whereas the LAX Master Plan north airfield configuration would not."** [AR 237.]

As with all of the nine alternatives, **the number of passenger gates under SPAS Alternative 5 would be reduced to 153 gates**. [AR 233, 237, 238.] Accommodation of the size of Design Group VI aircraft would require some elimination or downsizing of the piers at the northernmost reaches of Terminals 1, 2 and 3. [AR 233, 234, 4284, 4288

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standards, the 2012 SPAS Study Alternative 5 proposed to move the northernmost LAX runway **350 feet north**. [AR 175.]

[33] Among other things, SPAS Alternative 5 would, in addition to adding the proposed centerfield taxiway, extend the existing two taxi lanes just north of the terminals sufficiently to "provide more aircraft holding areas near the ends of runways", improving the ability of the control tower to sequence departures; and at the same time create a constant separation distance between the two taxiways "to provide for [Aircraft Design Group] VI separation distance and capability along its entire length." [AR 237.]

(map).] Though Alternative 5 concerns the north airfield and north terminals only, the SPAS Study identifies that the alternative is "compatible with the ground access improvements associated with Alternatives 1, 2, 8 and 9". [AR 233.]

Alternative 6. The preliminary SPAS Study Alternative 6 proposed to **move the northernmost LAX runway 100 feet to the north**, extending the southernmost north runway, with a new centerfield taxiway. [AR 23, 34, 238, 240, 4284, 4290.] This "airfield and terminal only" alternative would involve **some covering of the Argo Drainage Channel, some tunneling of Lincoln Blvd.**, and was also deemed compatible with a variety of ground transportation access options. [AR 23, 34, 238, 240, 4284, 4290 (map), 1505, 4284.]

SPAS Alternative 6, by separating the two northern runways an additional 100 feet, would allow standardized operation of Design Group V aircraft "in good visibility conditions" only, and **would not allow standard operation of Design Group VI aircraft "during any weather conditions"**. [AR 242.] According to the SPAS Alternative Study, under Alternative 6, **air traffic control would be required to restrict the movement of other aircraft** on the north airfield whenever any Design Group VI aircraft transitions from arrival on the northernmost runway until the aircraft crosses and clears both northern runways. [*Id.*]

Further, under Alternative 6, the continued close proximity of the two runways **would not allow a Design Group V or larger aircraft** "enough distance to turn and reach the crossing point" of a perpendicular runway at a sufficient angle… to see down the length" of a crossing runway. [AR 243.] Alternative 6 "would not achieve **pilot visibility to the end of the runway** for all aircraft… ." [AR 244.]

Alternative 7. The preliminary SPAS Study Alternative 7 proposes to move the southernmost LAX north runway **100 feet to the south**, adding a centerfield taxiway, resulting in "comparatively less concourse and/or gate area for Terminal 3". [AR 36, 38, 175, 245-248, 4284-4285, 422 (map).] The Runway Protection Zone ["**RPZ**"] under the "airfield only" Alternative 7 **would continue to overlay residential dwellings**, with no modifications to the Argo Drainage Channel or Lincoln Blvd. [AR 250].[34] SPAS Alternative 7 is also deemed compatible with a variety of ground transportation access options. [AR 245.]

As with SPAS Alternative 6, Alternative 7 would meet FAA runway design standards for Design Group V aircraft in good visibility conditions, but **would not permit the standardized operation of Design Group VI aircraft under any conditions, requiring other aircraft in the north airfield to hold until arriving Design Group VI have cleared the northern LAX runways**. [AR 249, 250.] The proposed additional 100-foot runway separation likewise **would not provide Design Group V or VI aircraft sufficient room to turn and have sufficient down-runway visibility**. [AR 250.]

[34] "The first 750 linear feet of the easterly end of the [Argo Drainage] channel" would be lined under all alternatives. [AR 4339; see fn. 30, *ante*.]

Alternative 8. The preliminary SPAS Study Alternative 8, a "**ground transportation only" alternative**, proposes an ITC east of Sepulveda between 96th St. and 98th St.; and CONRAC at the northeast corner of Century Blvd. and Aviation Blvd., each **connected to the passenger terminals by a dedicated busway**. [AR 36, 40, 176, 251-254, 4285, 4294 (map).] This ground access improvement alternative was deemed compatible with virtually all alternative airfield improvements. [*Id.*]

Alternative 8 would *remove all commercial vehicle staging* from the CTA, but still allow curb-front private passenger drop-off, pick up and parking. [AR 255, 256.] Commercial vehicle staging would be relocated to the GTC adjacent to the I-405, along with additional private passenger drop-off, pick up, parking and bag check facilities. [*Id.*] Door-to-door shuttles and buses would access the off-airport ITF; with connectivity to regional transit. [*Id.*] Rental car operations would locate at the off-airport CONRAC. [*Id.*] SPAS Alternative 8 would result in two newly significantly-impacted traffic intersections, as opposed to eleven significantly-impacted intersections under the conditionally approved Alternative D to the LAX Master Plan. [AR 256.]

Alternative 9. The preliminary SPAS Study Alternative 9, likewise **a "ground transportation only" alternative**, is similar to SPAS Study Alternative 8, except that the proposed ground access components would be **connected to the passenger terminals by an elevated Automated People Mover** ["APM"], rather than a dedicated busway. [AR 36, 42, 176, 257, 258, 4285, 4296.] As with Alternative 8, this ground improvement alternative in the SPAS Alternative Study is deemed **compatible with virtually all alternative airfield improvements**. [*Id.*]

The preliminary SPAS report recognized "a certain amount of compatibility or 'interchangeability' between the SPAS alternatives." [AR 188.] The SPAS report included a number of pages of charts through which the nine alternatives can be compared and contrasted with one another. [AR 189-192, 203-213.]

The 2012 SPAS Preliminary Report notes the various aircraft safety and efficiency issues associated with the LAX north airfield currently out of compliance with FAA aviation standards.[35] [AR 49, 51.] With respect to ground transportation access, the report identifies vehicular issues associated with the "queuing, weaving and conflict points at various locations within the CTA [Central Terminal Area]"; lack of passenger curbside demand efficiency; and vehicular security screening deficiencies. [AR 52-53, 200, 4270-4271.] Though LAX currently

[35] Stated more precisely: "[T]he [LAX] airfield geometrics (i.e., runway/taxiway widths, lengths, slopes, separation distances, dimensions for safety area setbacks and clearances, etc.) [are] based on ... older aircraft, which consisted of aircraft types that were substantially smaller and lighter than current day commercial aircraft." [AR 58.] As discussed earlier at pp. 3-4, this tension between updated aviation technology and the concomitant need to periodically evolve airfield geometrics has been a recurring issue at LAX since the 1930s.

has 163 passenger gates, the report emphasizes that "**all nine SPAS alternatives are designed with only 153 [passenger] gates.**" [AR 54, 184, 4272.] [36]

As summarized in the 2012 preliminary SPAS report:

> "The formulation of alternatives for reconfiguration of the north airfield includes various options for moving runways and associated taxiways northward or southward, each of which has implications relative to Terminals 1, 2, and 3. The formulation of potential alternatives to the demolition of Terminals 1, 2, and 3 is substantially influenced by the alternatives for the north airfield reconfiguration. **While the extent to which terminals are reconfigured under each terminal alternative will vary depending on which airfield reconfiguration alternative it is linked to, [Los Angeles] is seeking to maintain consistency between all terminal alternatives such that none of them results in more than 153 passenger gates at the projected passenger activity level of 78.9 MAP.**" [AR 60.] [37]

The preliminary 2012 SPAS Amendment Study identifies and visually depicts the LAX redesign proposal of petitioner Inglewood, which was submitted jointly with the City of El Segundo. [AR 124, 126, 1692.] Inglewood advanced a proposal to construct a CONRAC along

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[36] At the time of the preliminary 2012 SPAS Alternatives Study, LAX was the third busiest passenger airport in the United States, behind Hartsfield-Jackson Atlanta International and Chicago O'Hare International Airports. [AR 2214, 12637.] As noted earlier, Los Angeles' 1997 Master Plan NOP had estimated passenger demand of **97.8 MAP** at LAX by the year 2015. [AR 44, 4260, 53599.] When the LAX Master Plan was approved in 2004, passenger levels at LAX were projected to reach 78.9 MAP sometime between 2005 and 2006. [AR 184.] At and after that time, "significant increases in the cost of aviation fuel, the ongoing global economic downturn, increased security requirements, concerns about terrorism, and other market conditions" resulted in interim reductions in LAX passenger air service demands. [*Id.*] Actual passenger activity at LAX was 62.4 MAP in 2007, bottoming at 56.5 MAP in 2009, then increasing to 61.8 MAP in 2011. [*Id.*] While there are more current statistics becoming available each year, the issue before this court is the legal propriety of the determinations made by the lead agency (Los Angeles) based upon the facts available to it at the time of administrative decision-making. [See, *e.g.*, *Friends of Kings River v. County of Fresno* (2014) 232 Cal.App.4th 105, 119; *Silverado Modjeska Recreation & Park Dist. v. County of Orange* (2011) 197 Cal.App.4th 282, 307.] The 2011 statistics were the most recent numbers available at the time of the publication of the 2012 SPAS Alternative Study and the 2012 DEIR.

[37] While the proposed various LAX air terminal demolition options can vary significantly with the particular runway relocation alternative selected, the preliminary SPAS Amendment Study concluded that *any* alternative proposing a change to runways or taxiways would require at least the demolition of the northern tip of Terminal 1; additional spacing between Terminal 2 and Terminal 3 to allow dual-directional taxiing of larger aircraft; the demolition, modernization and realignment of Terminal 3; and a new terminal (Terminal "0") east of Terminal 1. [AR 173.] The difficulty in accommodating the massive wingspan of newer, larger aircraft is further compounded by the addition of after-market "winglet" devices attaching to manufactured aircraft, further widening the effective wingspan of such aircraft. [AR 175.]

98th St.; a joint ITC/ "Kiss-and-Ride" facility at Imperial Hwy. and Aviation Blvd.; new access ramps from the I-405; and links to MTA light rail connections at Aviation and Century, and at Sepulveda and Westchester Pkwy. [AR 121-122, 124, 126, 1692, 1714.] Inglewood also proposed moving the northernmost runway 100 feet to the north, with a new centerfield taxiway, and replacing certain existing passenger gates from Terminals 1, 2 and 3 with new passenger gates west of the Tom Bradley international terminal. [*Id.*]

Petitioner ARSAC's concept LAX redesign proposal is also discussed and depicted in the 2012 SPAS Amendment Study. [AR 124, 128, 1694, 1716.] ARSAC made the same recommendations as Inglewood, except ARSAC proposed an APM to deliver passengers to and from off-site, and ARSAC was opposed to any relocation of the north runways. [*Id.*] [38]

As described in the preliminary study, the Argo Drainage Channel "is a man-made flood control structure consisting of an unlined channel approximate 30 feet deep and approximately 9,900 feet long, which runs roughly parallel to and approximately 500 feet to the north of [the northernmost LAX runway]." [AR 172.] The preliminary 2012 SPAS Amendment Study observes that "**[a]ny northern shift [in the northernmost lax runway] would require a portion or all of Argo Drainage Channel to be reconstructed** to meet [Runway Safety Area] and [Object Free Area] grading requirements." [*Id.*] The "entire length of the Argo Drainage Channel" would need to be fully reconstructed, according to the report, if the northernmost runway is relocated more than 200 feet north. [AR 172, 1952-1960 (map diagrams).]

The July 2012 preliminary SPAS Alternative Study states that **Lincoln Blvd. would require realignment in the event of any north relocation** of the LAX northernmost runway, as each relocation would place portions of the existing roadway within the RSA and/or the OFA.

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[38] The dichotomy between the joint Inglewood/El Segundo proposed 100' northernmost runway relocation alternative and ARSAC's rejection of *any* north airfield runway relocation alternative seems to some degree to be a matter of comity between neighboring cities. As noted by El Segundo in response to the 2010 NASS Study:

> "Currently, operations at LAX are unbalanced between the North and South Airfields. **The South Airfield handles far more of the noisiest aircraft than does the North Airfield, and it handles the large majority of LAX's heavy aircraft**. The City has frequently pointed out **that this imbalance places an inordinate noise burden on El Segundo**...[¶] **Any improvement that increases the North Airfield's capacity to handle heavy aircraft will improve the airport's balance.**" [AR 2992-2993.] [Emphasis added.]

[AR 172, 1962-1970 (map diagrams).] Each increased northernmost runway separation alternative would require a longer segment of Lincoln Blvd. to be **reengineered below grade** to accommodate the reconfigured north airfield ("the Lincoln Tunnel"). [*Id.*]

The preliminary SPAS Study also pointed out that any north runway reconfiguration would also require the **relocation of antennae, navigational aids and radar deflectors** associated with any particular relocated north airfield runway. [AR 172, 1972-1994.] In anticipation of potential relocation of such navigational aids from existing coastal sand dune locations west of the LAX north airfield, Los Angeles commissioned a report to assess potential impacts to sensitive habitat within the dune ecosystem. [*Id.*] The report identifies and maps out each light and navigational aid to be moved and each proposed point of relocation for each SPAS runway relocation alternative. [AR 1982, 1984, 1986, 1988, 1990, 1992.]

The preliminary SPAS Alternatives Study identified an abandoned subterranean tunnel [referred to herein as "the Manchester Tunnel"] which would need to be filled and compacted in the event of north runway relocation. [AR 172-173.] An associated mapping study shows the location of the abandoned tunnel currently beneath the existing northernmost runway. [AR 2004-2016.]

The SPAS Study provided estimated price tags (in 2010 dollars) for each of the SPAS alternatives and possible combinations. [AR 279-284.] For example, proposed Alternative 1 (northernmost runway relocated 260' north) airfield/terminal improvements had an estimated taxpayer cost of **$4.762 billion** when combined with the Alternative 9 ground transportation APM. [AR 279.] Proposed Alternative 2 (no runway relocation) had an estimated cost of **$4.069 billion** with the same ground transportation option. [AR 280.] Proposed Alternative 5 (northernmost runway relocated 350' north; requiring less terminal modification) and Alternative 6 (northernmost runway relocated 100' north), showed comparable costs of **$4.75 billion and $4.63 billion**, respectively. [AR 282-283.] Proposed Alternative 3 (southernmost north runway relocated 340'south, involving demolition of the central terminal area and construction of the grand concourse; *i.e.*; the previously approved 2004 Master Plan Alternative D), showed an estimated cost of **$16.791 billion** to solve the same "Yellow Light" problems. [AR 281.]

The SPAS Alternatives Study further clarifies that the document, in support of potential amendments to the LAX Specific Plan, is a planning document delivered at a program level, and not a project-level construction document:

> "**The nine SPAS alternatives were formulated in a programmatic level of conceptual planning, and no design or engineering plans, or construction phasing plans or schedules, are available for any of the alternatives.** In general, however, it is assumed that all the improvements proposed under each alternative would be completed by 2025, with construction beginning in 2015. [Emphasis added.] [AR 178.]

Additional alternatives beyond the nine selected for the SPAS Alternatives Study were considered and rejected for a variety of scientific and logistical reasons. [AR 178-181.]

At such time as the annual passenger forecast at LAX exceeds 75 MAP, the preliminary SPAS Study proposes that Los Angeles initiate specific passenger and airline surveys/studies to identify actions designed to encourage domestic passengers and commercial airlines to fly in and out of regional airports other than LAX. [AR 265, 5986-5987.] [39] Further, at such point as the annual passenger forecast exceeds the current capacity of 78.9 MAP, Los Angeles would be required to initiate yet another Specific Plan Amendment Study to propose solutions. [*Id.*]

The 2012 SPAS Alternative Study Draft EIR

As agreed per the parties' 2005 Stipulated Settlement that the SPAS Alternative Study would be "prepared pursuant to CEQA" [AR 388], the preliminary 2012 SPAS Study was accompanied by a draft Environmental Impact Report ["DEIR"]. [AR 4230-12059.] Included within Los Angeles' 7829-page DEIR are 30 volumes of technical appendices. [AR 6038-12059.]

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[39] The DEIR's proposed future shift of domestic passengers to airports other than LAX specifically cites Bob Hope International Airport (BUR), Long Beach International Airport (LBG), John Wayne International Airport (SNA), LA/Ontario International Airport (ONT) and Palm Springs International Airport (PSP). [AR 5991.] Maximum passenger limits at the regional Orange County/John Wayne Airport, however, has long been limited by the terms of a litigation settlement agreement. [AR 25109.] LA/Ontario International Airport, after experiencing a passenger increase to 7.2 MAP in 2007 upon considerable modernization/incentive/outreach efforts, subsequently dropped to a low passenger count of 4.5 MAP in 2011. [AR 12465-12466.] Though "regional solutions" in prior years had also included discussion of shifting aircraft and passenger activity to Palmdale Airport, passenger service at Palmdale Airport was discontinued in 2009. [AR 5991.] The SPAS DEIR concludes that future commercial aircraft and passenger activity at Palmdale Airport would be "very unlikely". [*Id.*]

Identifying and diagramming each of the nine proposed SPAS alternatives [AR 4272-4296], the DEIR lays out a series of charts comparing each proposed SPAS alternative with SPAS Study project objectives. [AR 4298-4303.] A comparative chart identifies, *inter alia*, for each SPAS alternative, quantitative anticipated construction-related air emissions, airport operations-related air emissions, greenhouse gas emissions, acute non-cancer health risk, aircraft noise exposure [newly exposed population and homes], construction noise, and additional significantly impacted traffic intersections, both on-airport and off-airport. [AR 4309.]

The significance of environmental impacts for *each* proposed SPAS alternative, both with and without mitigation, is comparatively diagrammed within the DEIR, specifically as to aesthetics, air quality, biological resources, coastal resources, cultural resources, greenhouse gases[40], human health risk assessment, safety, hazardous materials, hydrology/water quality, land use and planning, aircraft noise, road traffic noise, construction traffic and equipment noise, transient noise, fire protection, law enforcement, on-airport transportation, off-airport transportation, energy, solid waste, wastewater generation and water supply. [AR 4307-4319.] Each of those comparative impacts or lack of impacts is then compared and discussed in detail. [AR 4320-4365.] Environmental impacts for each SPAS alternative, individually and cumulatively, are further compared and analyzed by applicable chemical compound contaminants and size of particulate matter [AR 4322]; each specifically impacted biological resource [AR 4324-4325]; each impacted historical resource [AR 4329]; each nearby archaeological resource [AR 4331]; the various categories of human health risks [AR 4333]; the aircraft /runway safety and efficiency breakdown per alternative [AR 4336-4337]; the various categories of hydrological and water quality risks [AR 4338]; land use/planning impacts by category [AR 4340]; the incremental noise levels as well as quantitative comparison by alternative of newly exposed residential units and population [41] [AR 4341-4350]; prospective

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[40] Presumably because of its proposed operation of an APM rather than a dedicated busway, SPAS Alternative 9 was projected to have lowest per capita project-related greenhouse gas ["GHG"] emissions. [AR 4332.]

[41] The one SPAS alternative projected to satisfy *all* FAA runway/safety requirements in all visibility conditions, Alternative 5, was also deemed to impact the *least* number of "newly exposed" residents at a noise contour of 65 CNEL. [AR 4341-4342.] California airport noise standards define incompatible noise levels as "exposure of nearby communities to noise levels of 65 Community Noise Equivalent Level ["CNEL"] or greater". [AR 5092-5093.] The expected comparative community noise contours are

construction-related noise comparisons [AR 4351-4352]; and off-airport transportation impacts by general category [AR 4359]. [42]

As required by 14 Cal.Code Regs. §15126.6(e)(2), the SPAS DEIR is mandated to select an "environmentally superior alternative". SPAS Study Alternative 2, which does not involve "any runway relocation or development of a center taxiway", and therefore would have fewer construction-related impacts and certain lesser operational impacts, was identified in the SPAS DEIR as the environmentally superior alternative. [AR 4362-4363.] [43]

The SPAS DEIR identifies subjects of "known [project] controversy" to be potential noise impacts, traffic impacts upon the existing surface roadway system, and air quality impacts. [AR 4363-4364.] The SPAS DEIR clarifies that the one issue yet to be resolved from the SPAS Alternatives Study is **Los Angeles' "choice[s] among alternatives"**. [AR 4364.]

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analyzed, detailed and mapped out for each runway alternative. [AR 5152, 5162, 5174, 5184, 5194, 5204, 5214.]

[42] As footnoted in the off-airport transportation analysis in the SPAS Alternative Study DEIR, Los Angeles' LAX Specific Plan and the study of the various proposed SPAS amendments are intended as interim level "planning" documents, rather than tiered construction-level "project" documents:

> **"The nine alternatives currently being considered for the SPAS project are only at a conceptual level of planning. No construction plans, programs, or schedules have been formulated for any of the alternatives. It would be speculative to estimate construction-related vehicle trip generation and distribution onto the local roadway network in order to evaluate traffic impacts on specific streets and intersections during peak and non-peak traffic periods. As such, the total number of intersections that may be temporarily significantly impacted during construction cannot be determined at this time."** [AR 4359.] [Emphasis added.]

[43] SPAS Alternative 2, however, along with Alternative 4, were found to be *the least satisfactory* of the seven runway alternatives in meeting the first project objective of the SPAS Alternative Study -- to provide aircraft/passenger safety and efficiency. [AR 4335-4336, 4366-4367, 142058-142059.] And, while Alternative 2 would culvertize only a fraction of the Argo Drainage Channel [AR 4339, 4978], **the remaining unlined drainage is a bird attractant**. [AR 4935, 4977.]

Each year there are dozens of **"birdstrikes"** by aircraft at LAX, which birdstrikes create an **aircraft and passenger safety issue** due to potential for interference with aircraft engine operation or damage to an airframe. [*Id.*] The proposed covering of the entirety of the Argo Drainage Channel to satisfy FAA regulatory requirements under SPAS Alternative 1 and Alternative 5, with proper off-site mitigation elsewhere, is considered by the SPAS DEIR to be environmentally beneficial to human safety by "removing an existing bird attractant from the LAX vicinity". [AR 4962, 4997.]

In its 76-page "project description" subsection, the SPAS DEIR once again presents in detail and diagrams each of the nine proposed SPAS alternatives. [AR 4366-4408.] The SPAS DEIR project description includes side-by-side comparison charts of the nine SPAS alternatives [AR 4410-4413]; identification and diagram of existing facilities that could be impacted by one or more of the nine alternatives [AR 4410-4422]; identification and diagrams of conceivable acquisition properties required under one or more SPAS alternatives [AR 4422-4432]; identification and diagram of potential construction staging areas under the various SPAS alternatives [AR 4422, 4434, 4436]; identification of previously rejected alternatives and designs [AR 4436-4439]; and identification of those federal, state and local agencies which could use a subsequently certified SPAS EIR in its own approval processes [AR 4439-4441].

Rather than impacts being analyzed for one prospective project, each of the potentially significant impacts identified in the 2010 RNOP are comprehensively analyzed in the SPAS DEIR for all nine SPAS Study alternatives.[44] [AR 4458-5984.] With respect to all nine proposed SPAS alternatives, the significant impacts that could not be reduced to levels of insignificance were determined to be issues concerning air quality, greenhouse gases, non-cancer human health risk, land-use impacts, aircraft noise, construction equipment noise, on-airport transportation, off-airport transportation, and solid waste generation and disposal. [AR 5998-6000.] Finally, the SPAS DEIR considered conceivable growth-inducing impacts of implementation of SPAS Study alternatives. [AR 6002.]

Public Comments to the SPAS DEIR and Los Angeles' Initial Recommendation

Upon circulation of the DEIR for public review, Los Angeles reconvened the SPAS Advisory Committee, including petitioners, for further discussion. [AR 17824-17858.] The

[44] Aesthetics AR 4458-4533; Air Quality AR 4534-4613; Biological Resources AR 4614-4748; Coastal Resources for 4750-4787; Cultural Resources AR 4788-4835; Greenhouse Gases 4836-4873; Human Health Risk Assessment AR 4874-4932; Aviation Safety AR 4934-5022; Hazardous Materials AR 5024-5048; Hydrology and Water Quality AR 5050-5090; Land Use and Planning AR 5092-5229; Aircraft Noise AR 5230-5384; Road Traffic Noise AR 5386-5394; Construction Traffic/Equipment Noise AR 5396-5427; Transit Noise/Vibration AR 5428-5445; Fire Protection AR 5446-5471; Law Enforcement AR 5472-5494; On-Airport Transportation AR 5496-5634; Off-Airport Transportation AR 5636-5779; Energy AR 5780-5805; Waste AR 5806-5818; Wastewater Generation AR 5820-5830; Water Quality AR 5832-5843; and Cumulative Impacts AR 5844-5984.

Advisory Committee was presented with specific comparisons of the various SPAS Study alternatives, including aircraft noise impact advantages [AR 17854-17855] and the airfield safety advantages [AR17856].

At the same time, Los Angeles also scheduled three days of public meetings [AR 19358], with an accompanying brochure describing and depicting each of the nine SPAS Study alternatives. [AR 17859-17878, 17879-17898.] In setting out its decision timeline, the public was advised that Los Angeles would select a preferred alternative only *after* considering and awaiting the public's comment and input. [AR 17867.]

In addition to its face-to-face public meetings, Los Angeles noticed [AR 17877, 17897] and hosted a "virtual meeting" website for a period of 30 days, with numerous video and audio components, including discussions and SPAS alternative comparison screens concerning LAX north airfield and air terminal options; ground transportation alternatives; aviation safety; aircraft noise; air quality, and traffic. [AR 17313-17363.]

Los Angeles received 2063 public comments in response to the DEIR, including comments from petitioners Inglewood/Culver City and ARSAC. [AR 3372, 14648-15049.]

Former litigant El Segundo commented, *inter alia*, that it was "apparent from the [DEIR] that the delay was in part due to [Los Angeles] taking seriously its obligation to engage in meaningful reconsideration of certain previously adopted LAX Master Plan elements". [AR 14661.] El Segundo advanced that Los Angeles, "for the most part, produced documents that clearly explain the available options and fairly described their potential benefits and impacts". [*Id.*]

Among other things, El Segundo stated that it was "gratified to see that [the Los Angeles] SPAS document clearly acknowledges the importance of limiting the number of gates at LAX as a means of limiting the airport's capacity...." [AR 14661.] In the words of El Segundo, Los Angeles' continued adherence to the LAX Master Plan limit upon passenger gates "**sends a clear message that [Los Angeles] is committed to regionalization of aviation**...." [*Id.*]

El Segundo did express concern that the DEIR's failure to select a single "proposed or preferred" project seemed to contradict language of CEQA regulations referring to "the project"

in the singular, rendering the DEIR more complex for readers. [AR 14662.] In advancing proposed SPAS Alternative 6 moving the northernmost runway 100 feet farther north [see fn. 38, *ante*], El Segundo expressed that it would be "wholly unacceptable" for Los Angeles to adopt "any alternatives that leave the northern airfield in its current state and therefore do nothing to resolve the present operational imbalance... or make it even worse by shifting [the southernmost north runway], and therefore the airport's entire noise contour, southwards." [*Id.*] In other words, El Segundo's position on acceptability of north airfield runway alternatives is in conflict with the "no northern runway relocation" position of Westchester/Playa del Rey-based ARSAC. [45]

A more strident DEIR comment letter was received from Inglewood/Culver City. Despite Los Angeles' previous specific identification of its "preferred" project under the LAX Master Plan EIR Supplement -- Alternative D [AR 25215]; despite all litigants' subsequent 2006 Stipulated Settlement in which Los Angeles was contractually mandated to conduct an "Alternatives Study" as to the numerous "Yellow Light" aspects of the 2003 Master Plan [AR 387-388]; despite petitioners' joint direction to Los Angeles in 2008 not to "prematurely select" a preferred alternative to the various "Yellow Light" projects [AR 6193]; and despite Los Angeles' mandatory identification of a post-analysis "environmentally superior" alternative in 2012 [AR 4362-4363], Inglewood/Culver City's comment letter declares it an "obfuscation" of CEQA for Los Angeles to have not designated a newer "preferred alternative" in the project description section of its DEIR. [AR 14666.]

In addition to that challenge, *inter alia*, and without corresponding discussion of the stipulated passenger gate limitations, Inglewood/Culver City's comments assert that the SPAS Alternative Study's emphasis upon passenger and aircraft safety disregards LAX's "capacity

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[45] Eleven days *before* Los Angeles' issuance of its July 27, 2012 preliminary SPAS Alternative Study and its corresponding DEIR, ARSAC delivered a comprehensive Public Records Act demand to Los Angeles, followed by a press release. [AR 14781-14782.] According to the ARSAC press release, in pertinent part:

> "ARSAC, the Alliance for a Regional Solution to Airport Congestion, reaffirms its opposition to moving the north runway, 24 Right, closer to the communities of Westchester/Playa del Rey.... [¶]... **If necessary, we will go back to court to protect our communities and to force LAX to reconsider other runway configurations which do not move aircraft closer to Westchester/ Playa del Rey**'." [AR 14982.]

enhancing potential" once airfield operations are rendered more efficient. [AR 14667.] [46] Inglewood/Culver City further questioned the air quality analysis of the DEIR, including the completeness of the supporting data; the lack of jet "engine assignments" associated with Los Angeles' aircraft modeling data; and the lack of sufficient specificity associated with analysis of construction on the potential realignment of Lincoln Blvd. [*Id.*; but *cf.* fn. 42, *ante*.] Inglewood/Culver City challenged the EIR's conclusion that SPAS Alternative 5 "with the greatest runway displacement of 350 feet" could conceivably result in the least population exposed to the 65 CNEL contour. [*Id.*] Inglewood/Culver City also raised issues as to the DEIR's delineation and mitigation impacts at specific traffic intersections. [*Id.*]

The SPAS DEIR air quality analysis [AR 4534-4613], *inter alia*, is supported by more than 400 pages of modeling calculations, categorized by anticipated construction emissions and concentrations, projected operational emissions, and expected site-specific operational concentrations. [AR 6808-7241]. Despite the level of mathematical detail, the South Coast Air Quality Management District ["SCAQMD"], in addition to suggesting additional operational emissions mitigation requirements, commented that the DEIR lacked specificity sufficient for purposes of SCAQMD guidance, including "many of the air quality analysis methodologies" utilized. [AR 14656.]

In response to the request by SCAQMD for more base modeling data, Los Angeles met with SCAQMD on November 12, 2012, at which time Los Angeles delivered to SCAQMD two digital discs containing requested "[d]etailed aircraft emission calculation spreadsheets and modeling input and output files" supporting technical appendix C of the DEIR. [AR 12511.] Those working spreadsheets, all of which can be found in the administrative record through electronic subfolders indexed by category at AR 131649, "would be between 60,000 and 80,000 pages long if printed". [AR 12508.]

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[46] While El Segundo praised Los Angeles' 2012 preliminary SPAS Alternative Study and associated DEIR as "a clear message that [Los Angeles] is committed to regionalization of aviation" [AR 14661], Inglewood/Culver City's position was that the preliminary Alternative Study and SPAS DEIR constituted "a patent abrogation of responsibility under the [Stipulated] Settlement to regionalize air travel...". [AR 14669.]

ARSAC also timely commented upon the 2012 DEIR. [AR 14778-14780.] ARSAC's counsel, *inter alia*, stated that ARSAC was "adamantly opposed to... any alternative that would relocate [the northernmost runway] further north", and commented that the DEIR "emphasizes north runway movement". [AR 14778.] ARSAC commented that CEQA "mandates" that Los Angeles "identify a *single* proposed project", while the SPAS Alternative Study listed a "menu" of possible alternatives, with an even wider array of potential runway relocation/ground transportation access combinations across those alternatives. [*Id.*]

ARSAC also noted in its comments that north runway relocation alternatives "would also require relocation and potential tunneling of busy Lincoln Blvd.", and that "[s]ensitive biological resources, including the endangered El Segundo blue butterfly, could be impacted by relocation of navigational aids needed to support relocating runways"; both impacts as to which ARSAC contended require more extensive analysis. [AR 14781.] As to any proposed Lincoln Blvd. tunneling, ARSAC expressed concern that Los Angeles had failed to consult with its own sanitation district in attempting to locate possible conflicting underground utility lines. [AR 14782.]

Upon staff review and consideration of public comments to the preliminary SPAS Alternative Study and the SPAS DEIR, the Los Angeles' airport executive board, BOAC, met on December 3, 2012. Staff advised BOAC that only Alternative 5 "meets all of the airfield objectives". [AR 15977.] Staff advised that the previously (and conditionally) approved **Alternative D** under the 2003 LAX Master Plan (in light of its **$16.791 billion** estimated cost -- AR 281) would be the "**least fiscally responsible**". [*Id.*]

Staff advised BOAC that all SPAS airfield alternatives, other than the previously (though conditionally) approved Alternative D, would *decrease* potentially harmful air emissions over the *status quo*, with Alternative 2 (no runway relocation) producing the greatest savings in terms of potentially harmful contaminants and particulates. [AR 15979.] Staff advised BOAC that of all SPAS airfield alternatives, though all of the proposed alternatives were better than the *status quo*, **Alternative 5** (relocating the northernmost airfield 350 feet farther north), followed by **Alternative 1** (relocating the northernmost airfield 260 feet farther north), would result in the **least number of additional residential dwellings impacted by aircraft noise levels** of 65 CNEL or greater. [AR 15980.]

BOAC was advised by its staff that the SPAS alternatives featuring the dedicated busway option (Alternatives 1, 2 and 8) met all SPAS ground transportation objectives, with the APM option alternatives (Alternatives 3 [formerly "D"] and 9) being less fiscally responsible, given the nearly $994 million estimated cost allocated to the APM system. [AR 280, 15983.]

In light of all of the competing concerns, staff recommended to BOAC at this agendized public hearing [AR 15969] that BOAC adopt the runway portion of **Alternative 1** (relocate northernmost **runway 260 feet north**) **and Alternative 9** (**APM**). [AR 15988-15989.] [47]

The following day, on December 4, 2012, Los Angeles held a SPAS Advisory Committee meeting [AR 18217-18242, 142073-142098], which committee includes all petitioners in this case.[48] With respect to the LAX north airfield, Los Angeles staff presented the Advisory Committee with both the aircraft safety advantages and limitations of SPAS Alternative 1:

"Airfield/Terminal Features·
- **Achieves centerline taxiway** with a movement of arrivals runway 260' north.
- **Supports standard [FAA] operations** on the North Airfield, except for Group 6 aircraft when visibility is less than 1/2 mile.
- **Provides pilot line-of-sight** to end of departures runway for all except Group 6 operations.
- **Addresses Runway Safety Area and Taxiway/Taxilane deficiencies**.
- **Allows redevelopment or extension to north terminal facilities including Terminal 0**, TBIT and the Midfield Satellite Concourse (MSC)
- **153 passenger gates**." [AR 142093.] [Emphasis added.]

On January 8, 2013, Los Angeles' city planning department conducted an open house/ public hearing to obtain further public comment. [AR 15995-16007.] The formal notice advised the public of staff's recommendation of Alternative 1 (airfield/terminals) and Alternative 9 (ground transportation), which recommendations were discussed at length. [AR 15995-16007,

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[47] The selection of Alternative 9 over Alternative 8, by eliminating the proposed busway in favor of the APM, was noted by staff to "free up" curb space for private vehicles within the CTA. [AR 15987.]

[48] Both groups of petitioners in this case argue (or at least in the case of ARSAC, infer) that Los Angeles did not designate its staff-preferred alternative until Los Angeles' issuance of its final environmental impact report in early 2013. [Inglewood/Culver City opening brief, at 13: 9-11; ARSAC opening brief, at 14: 14-15.] Such contentions are directly contradicted by the record. [AR 16003-16004, 16029-16030, 15988-15989, 18217-18242, 142092-142098.]

16028, 16029-16030, 18855 (audio), 19077-19159 (transcript).] [49] The sign-in sheet shows 62 speakers and 538 attendees, many of the latter submitting comment cards. [AR 16034-16167.]

The 2013 SPAS Amendment Study Final EIR

On January 25, 2013, Los Angeles issued its 3000-page Final SPAS Amendment Study EIR ["FEIR"]. [AR 12060-15059.] The FEIR reiterates staff recommendation of **Alternative 1** for airfield/terminal improvements (northernmost airfield 260 feet north) and **Alternative 9** (GTC/ITC/APM) for ground transportation access improvements. [AR 120272, 12074 (diagram), 12077-12082.] As summarized by the FEIR, the proposed recommended planning alternatives to the 2003 LAX Master Plan and Specific Plan should proceed to a project stage as follows:

- **Relocation of [the northernmost] Runway 260 feet north**
- **Construction of a centerline taxiway**
- **Easterly extension of [the northernmost] Runway**
- **Improvements to north airfield taxiways**
- **Development/redevelopment/extension of Terminal 0, Terminal 3, Tom Bradley International Terminal, and the future Midfield Satellite Concourse**
- **153 passenger gates**
- **Development of an Intermodal Transportation Facility (ITF), Consolidated Rent-A-Car Facility (CONRAC), and parking outside the Central Terminal Area (CTA)**
- **Construction of an Automated People Mover (APM) to link new facilities to the CTA and provide connectivity with planned Metro** [Light Rail] **facilities** [AR 12072.]

Los Angeles' staff summary states that the recommended **260-foot northernmost runway relocation "would provide for standardization of nearly all airfield operations, substantially improve pilot situational awareness, address all airfield hazards, and include efficiency features**". [AR 12073.] A western extension of the same runway by 604 feet would **remove all residences from the RPZ**. [AR 12077.] The FEIR, while not challenging the additional aircraft safety/efficiency advantages of moving the northernmost runway even farther to 350 feet north (Alternative 5), articulates Los Angeles staff's desire **"to achieve a balance between SPAS airfield-related objectives and the SPAS objective of minimizing impacts on surrounding communities".** [AR 12073.]

[49] Los Angeles' notice explained the need to raise issues at the administrative level or face possible bar in the event of subsequent legal challenge under doctrine of the exhaustion of remedies. [AR 16030.]

Per the FEIR, city staff's recommendation of Alternative 9 (APM) for ground transportation access is to "reduce traffic in and around the CTA".[50] [*Id.*] Because the SPAS DEIR had previously detailed and analyzed impacts for *each* of the nine SPAS alternatives and their various design elements over many thousands of pages, and because the SPAS DEIR anticipated "interchangeability" among proposed airfield, terminal and ground transportation components, the FEIR did not deem the recommended combination of airfield/terminal components of Alternative 1 (airfield 260' north) and the ground transportation access only Alternative 9 (GTC/ITC/CONRAC/APM) to be "significant new information" under CEQA. [AR 12076-12077.]

The staff's proposed Alternative 1/Alternative 9 recommendation will require, *inter alia*, converting the 9857-foot length of the currently unlined Argo Drainage Channel to a concrete box culvert to support the weight of at least a 1.235 million pound aircraft, and the relocation of Lincoln Blvd. between Sepulveda Blvd. and Westchester Pkwy., including an approximate 540-foot tunnel to meet FAA OFA requirements. [AR 12078, 12083.] The adoption of Alternative1/ Alternative 9 will require the corresponding relocation of navigational aids at the end of the northernmost airfield runway, and the filling of the 720-foot abandoned Manchester tunnel segment. [AR 12083.]

Aircraft parking limit lines under Alternative 1/Alternative 9 will require demolition of the northerly 177 feet of what is currently Terminal 1 and its associated gates; demolition and reconstruction of Terminal 3 to provide a wider alleyway between Terminals 2 and 3; demolition and replacement of the northern end of the Tom Bradley international terminal and associated concourse and gates; and the addition of a new Terminal "0" to replace passenger gates lost to demolition or downsized to support smaller aircraft, plus associated CTA private vehicle curb space. [AR 12079.] **Staff-recommended Alternative 1/Alternative 9 will support a maximum of 153 passenger gates at LAX**. [*Id.*]

The FEIR identifies certain "green light" portions of the previously approved LAX Master Plan which would be fully or partially modified by virtue of any overlapping adoption of

[50] The APM "would be located within an elevated/dedicated corridor along 98th Street, with a bridge over Sepulveda Boulevard and stops at Manchester Square, the future Metro LAX/Crenshaw Light Rail Transit Station at/near Century and Aviation Boulevards, the ITF, and the CTA". [AR 12077.] Within the CTA, the APM "would be located on a new, elevated guideway". [*Id.*]

Alternative 1/Alternative 9. [AR 12080.] The FEIR synchronizes the environmental impacts and proposed mitigation measures specifically associated with the airfield/terminal portions of Alternative 1 and all impacts and proposed mitigation associated with Alternative 9. [AR 12086-12380.]

In accordance with applicable law (14 Cal. Code Regs.§15088), the SPAS FEIR recites and responds to the many public comments to the DEIR. [AR 13292-13751.] In consideration of the public comments, Los Angeles made numerous corrections and additions to the previously issued 2012 DEIR. [AR 13752-13963, 14522-14627.] The FEIR found the areas of significant environmental impacts that could not be mitigated to levels of insignificance to be air quality, greenhouse gases, non-cancer health risk assessment, aircraft noise, construction traffic and equipment noise, on-airport transportation and off-airport transportation. [AR 12372.]

Staff-recommended Alternative 1/Alternative 9 would construct a closed concrete culvert over 1.33 acres of possible state/federal jurisdictional wetlands encompassed by the Argo Drainage Channel, plus surrounding associated non-wetland acreage. [AR 12130-12131.] The FEIR proposes to mitigate and replace any wetland loss through project-level consultation with any and all appropriate state and federal jurisdictional agencies. [AR 12138-12139; see also fn. 43, *ante*.]

With respect to the proposed Alternative 1/Alternative 9 realignment/tunneling of Lincoln Blvd., the FEIR response to comments clarifies that location of the proposed realignment "is almost entirely vacant", with the exception of the existing roadway and a radar facility. [AR 12450.] At its greatest distance, the proposed relocated Lincoln Blvd. segment would be approximately 500 feet north of its existing location. [*Id.*] The entirety of the proposed Lincoln Blvd. realignment area is located entirely within existing LAX airport property. [*Id.*]

The FEIR, in its response to public comments, emphasizes that the SPAS Alternative Study **is a "program" level planning document** proposing "the possible amendment of the LAX Specific Plan, which is an element of the City's General Plan". [AR 12451; citing 14 Cal. Code Regs. §§15385 and 15152(c).] In other words, before any actual construction activity could ever commence on any portion of the LAX Specific Plan or its proposed amendments, there

would need to be additional, detailed "project-level" environmental review in full compliance with CEQA. According to the FEIR response to comments:

> "**Detailed project-specific planning, phasing, and design for individual components in the SPAS alternatives are not included in this phase of the SPAS process. Therefore, not only is project-level analysis of the Lincoln Boulevard realignment not required by CEQA, but it also would be technically infeasible and speculative.**" [Emphasis added.] [AR 12451-12452.]

With respect to the recommended Alternative 1/Alternative 9 Lincoln Blvd. realignment, because the roadway is a portion of State Hwy.1, any project-level approval could conceivably fall within the responsibility of Caltrans. [AR 15452.] Regardless of the designated lead agency, the FEIR notes that specific construction details would need to be developed during a project-level engineering phase, including the engineered construction plans; vehicle restrictions; hazardous materials restrictions; ventilation; emergency exits; emergency response; traffic controls; security issues; construction maintenance; evaluation/location of any utilities beneath the site; relocation plans for any utilities located; and the nature and duration of roadway closures and related detours. [*Id.*]

Staff-recommended Alternative 1/Alternative 9 would, as noted above, require removal and relocation of aircraft navigational aids and associated service roads associated with relocation of the northernmost runway. [AR 12120-12125 (diagrams at AR 12122, 12142).] These removal/relocations would affect an undeveloped 0.31 acres east of Pershing Dr., and would affect 0.03 acres of Encelia Scrub and 0.28 acres of ruderal vegetation, neither population of which is considered by the FEIR to be environmentally sensitive. [AR 12120-12121.] The navigational aid removal/relocation would also impact 0.89 acres within the Los Angeles/ El Segundo Dunes west of Pershing Dr., including impacts to 0.54 acres of Disturbed Southern Foredune, a sensitive habitat. [AR 12121.] The latter impact is deemed by the FEIR to be a significant impact, which the document concludes would be reduced to levels of insignificance through mitigation by virtue of a 26.33 acre habitat replacement program. [AR 12124-12126, 12139-12140.]

Staff-recommended SPAS Alternative 1/Alternative 9 could also conceivably impact sensitive coastal plant species and sensitive wildlife (including insect) species. [AR 12126-12130.] Any significant biological impact associated with SPAS Alternative 1/Alternative 9 is

proposed to be mitigated to levels of insignificance through a comprehensive survey, restoration and habitat enhancement mitigation program. [AR 12133-12139.] In response to comments, the FEIR notes that more detailed project-level analysis "would be speculative prior to completion of final project engineering design". [AR 12475.]

Responding to the SCAQMD request for all underlying data input used to elicit the air emissions modeling output summaries provided in the DEIR, the FEIR responds as follows:

> "... [Los Angeles] held a follow-up meeting with SCAQMD staff on November 29, 2012, to review and discuss the air quality analysis, impacts, and mitigation. Detailed aircraft emission calculation spreadsheets and modeling input and output files associated with the SPAS Draft EIR air quality analysis were provided to SCAQMD on two CDs at this meeting. **These files are available, upon request, in electronic format and are also available for public review in hard-copy form at** LAWA's Capital Programming and Planning Division, **Room 208, One World Way, Los Angeles, California**....[Emphasis added.] [AR 12511.] [51]

In response to the comment by SCAQMD requesting more project-level detail on a specific proposed DEIR mitigation measure, the FEIR comment response states in pertinent part:

> "As with the analysis in the EIR, the level of detail in mitigation measures can only be as specific as the program that they are designed to address. **Where, as here, the project is at the general planning-level, it is appropriate to consider broad policy alternatives and program-wide mitigation measures rather than develop project-level, specific mitigation measures in the absence of specific project details.**" [Emphasis added.] [AR 12511.]

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[51] With respect to the logistics of physical production of the underlying modeling input/output working data, the FEIR responds as follows:

> "The EDMS and AERMOD input and output files in native formats were provided by LAWA to SCAQMD on CDs during a meeting scheduled to discuss the LAX SPAS project with SCAQMD on November 29, 2012. Also included on the disks were the emission calculation spreadsheets for construction and operational sources. **Producing a hard copy of this information would generate 60,000 to 80,000 pages of material; therefore, [Los Angeles] has chosen not to create hard copies, since most of this material is only useful in electronic format as used in the modeling programs. The SPAS Draft EIR provided all required and necessary information from the air quality impact analysis for decision making, including construction and operational emissions and concentrations by alternative**, in Section 4.2 and Appendix C of the SPAS Draft EIR. The emissions were developed from standard sanctioned regulatory models (EMFAC2011, OFFROAD2007, CalEEMod, and EDMS v.5.1.3) for the sources considered in the analysis." [Emphasis added.] [AR 12509.]

The FEIR, in response to former litigant El Segundo's recommendation advanced jointly with petitioner Inglewood that the northernmost runway should be relocated 100 feet to the north (*i.e.*, SPAS Alternative 6), states in pertinent part: "**Alternative 1 better responds to the project objectives of providing north airfield improvements that support safe and efficient movement of aircraft at LAX** ...". [Emphasis added.] [AR 12538; also see diagrams at AR 142058-142059.]

In response to petitioner Inglewood/Culver City's comment that the failure to select a new recommended alternative prior to issuance of the SPAS Alternative Study DEIR is a violation of CEQA, the FEIR responds, *inter alia*, **that the entire purpose of the 2005 Stipulated Settlement was to present and analyze alternative projects** to the "Yellow Light" portions of Alternative D, not to advance one new project. [AR 12564.] Further, the FEIR responds that CEQA protocol is not offended by an unselected "alternatives" approach, citing *California Oak Foundation v. Regents of the University of California* (2010) 118 Cal.App. 4th 227, and noting that interpretive federal NEPA regulations specifically authorize a lead agency to decline to recommend an alternative in a federal environmental impact statement. [AR 12565.]

With respect to Inglewood/Culver City's DEIR comment that north runway efficiencies will *de facto* result in an increased capacity of LAX to handle more passengers, the FEIR response provides detailed modeling data establishing no material difference between any of the various SPAS alternatives, including the "no project" alternative, and associated aircraft operation "throughput" efficiencies. [AR 12568-12570.]

As to Inglewood/Culver City's comment alleging insufficient production in the DEIR of the tens of thousands of pages of underlying electronic data spreadsheets necessary to "verify the accuracy" of Los Angeles' air quality "EDMS" modeling results, the FEIR advises that the 60,000-80,000 pages of referenced electronic working spreadsheets delineating the specific modeling input data were and remain "available upon request". [AR 12571-12572.]

Inglewood/Culver City's comment that the DEIR air quality modeling study excluded "reverse thrust" emissions is contradicted in the FEIR comments in accordance with the stated assumptions of the underlying modeling literature. [AR 12575.] The FEIR responds to Inglewood/Culver City's comment that DEIR air quality modeling methodology does not

address the actual engine types assigned to each aircraft flying in and out of LAX, by noting that the EDMS air quality model is premised upon an accurate "fleet mix" using default engine selections for the particular aircraft type. [AR 12575-12576.][52]

In response to ARSAC's comments questioning the failure of the SPAS DEIR to advance a *single* recommended "Yellow Light" projects alternative, the FEIR replied that *each* of the nine identified project alternatives in the DEIR sets forth an "accurate, stable and finite" project description within the meaning of CEQA. [AR 12834.] The FEIR notes that nowhere in the Stipulated Settlement was there a mandate to revise the 2005 LAX Master Plan previously approved; rather, the obligation of Los Angeles was **to study** a series of alternatives to the "Yellow Light" portions of the approved Master Plan, and to bring those alternatives forward. [*Id.*][53]

With respect to ARSAC's preference for Alternative 2 (no runway relocation), the DEIR-designated "Environmentally Superior Alternative", the FEIR responses to comment observe, in pertinent part:

> "**One of the objectives associated with completion of the SPAS process is to provide north airfield improvements that support the safe and efficient movement of aircraft at LAX**. This includes adding implementing improvements that are consistent with FAA design standards providing sufficient areas at the end of the runways for

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[52] It should be recalled that of the agreed-upon terms of the 2006 Stipulated Settlement signed by all parties to this litigation expressly assigned to Los Angeles the "**discretion to determine the appropriate methodology**" for the SPAS Alternative Study, "prepared pursuant to CEQA and may, in consultation with FAA, also be prepared to comply with applicable federal laws". [AR 388.]

[53] The 2004 LAX Master Plan, which ARSAC chose to litigate, proposed to move the southernmost north runway 340 feet *south* from its current location. [AR 25215, 25223-25225.] That project, because it pushed the southernmost north airfield so far to the south, also required the demolition of Terminals 1, 2 and 3, and the demolition and transformation of the entire CTA into a large central passenger concourse. [*Id.*] In resolving that litigation, ARSAC and the other petitioners jointly required Los Angeles, *inter alia*, to study alternatives to that north airfield runway reconfiguration. [AR 387.]

The SPAS alternatives study ultimately determined that the 2005 Master Plan north airfield runway relocation plan the "least fiscally responsible" of all alternatives. [AR 15977.] Specifically, while the Master Plan proposal has a DEIR cost estimate to the taxpayers of **$16.791 billion** for the "Yellow Light" items, the DEIR estimates the Alternative 1/Alternative 9 combination to have a comparable total cost of **$4.762 billion**. [AR 279.] So, while ARSAC did arguably "shoot itself in the foot" by litigating an approved project which proposed to significantly move the southernmost north runway 340' closer to El Segundo and farther away from Westchester/Playa del Rey, in the final analysis the taxpayers, including those in Westchester/Playa del Rey, will be saving an estimated **$12.029 billion**.

holding arriving flights and sequencing departing aircraft, among others.... **All of the other airfield improvements alternatives would meet this objective to greater extent than Alternative 2, with the exception of Alternative 4**.... By not including a centerfield taxiway, **Alternative 2 is the only airfield alternative, besides Alternative 4, that would only provide sufficient space to hold [Design Group] IV aircraft or smaller on crossing taxiways, whereas the other alternatives would accommodate [Design Group] V or VI aircraft**. With absence of a centerfield taxiway, **Alternative 2 would also not provide FAA air traffic controllers with as many options for handling aircraft exiting the runway**." [Emphasis added.] [AR 12762, 12835.]

Responding to ARSAC's concerns regarding Lincoln Blvd. realignment, the FEIR describes the proposed new traffic state highway re-routing, concluding that the improvement "is not expected to affect the overall north/south through traffic capacity on Lincoln Blvd. nor on Sepulveda Blvd." [AR 12838, 13577.] With respect to the proposed Lincoln Blvd. tunneling, the FEIR confirms DEIR notification of the city's sanitation department, and confirmation in the FEIR that "none of the outfall sewers that lie beneath LAX would be affected by the SPAS alternatives". [AR 12847.]

Certification of the 2013 SPAS Alternatives Study FEIR

Upon issuance of the FEIR, Los Angeles, through its airport department BOAC, noticed a public hearing on January 31, 2013, solely for the purpose of receiving additional public comment. [AR 16567-16568.] Los Angeles staff prepared additional written responses to those public comments. [AR 20373-20384.]

On February 5, 2013, after further public hearing [AR 16588-16626, 18959-19075, 19076 (video)], BOAC adopted the Final SPAS report and certified the SPAS Alternative Study FEIR as in compliance with CEQA. [AR 16575-116587.] In its supporting resolution, BOAC declared that staff-recommended Alternative 1/Alternative 9 "**best balances the SPAS Objectives while acknowledging community concerns** better than the Yellow Light Projects and other studied SPAS Alternatives". [AR 5.] [Emphasis added.]

Among other things, BOAC determined that selected Alternative 1/ Alternative 9 "**standardizes nearly all airfield operations, substantially improves pilot situational awareness, addresses all airfield hazards, includes airfield efficiency features**". [AR 5.] According to the BOAC resolution, the proposed ground transportation components "reduce[] bottlenecks and congestion", and reduce the volume of vehicles in the CTA. [*Id.*] BOAC

specifically found that **Alternative 1/Alternative 9 "would not result in more than 153 passenger gates at 78.9 MAP**". [*Id.*]

The BOAC approvals amend the LAX Specific Plan to require an airline market survey/study once annual LAX passenger activity is forecast to exceed 75 MAP, and to initiate *a new SPAS Study* focused upon regionalization once LAX annual aviation analysis forecasts passenger activity exceed 78.9 MAP. [AR 5.] BOAC determined Alternative 1/Alternative 9 to be "the best alternative to the problems that the Yellow Light[] Projects were designed to address, **subject to future detailed planning, engineering, and project-level environmental review...."**[Emphasis added.] [AR 9].

BOAC issued 162 pages of supporting CEQA findings in the corresponding mitigation measures [AR 5, 3912-4073], and issued a statement of overriding considerations justifying approval of Alternative 1/Alternative 9 in light of the existence of remaining significant unavoidable impacts. [AR 5, 4074-4080.] As set forth in the statement of overriding considerations, SPAS Alternative 1/ Alternative 9 "**would result in a north airfield configuration that would permit 99.87% of all aircraft operations forecasted to serve LAX in 2025 to be managed in a standard manner, free of restrictions and workarounds that complicate efforts to provide a safe and efficient airfield.**" [AR 4076; also see AR 16018.]

On February 14, 2013, ARSAC formally appealed the BOAC decision to Los Angeles' city council, asking the council for the adoption of Alternative 2 (no runway relocation), as opposed to Alternative 1 (northernmost runway 260' farther north). [AR 20307.] ARSAC's appeal does not specifically address BOAC's decision to select Alternative 9 for ground transportation improvements. [*Id.*]

Also on February 14, 2013, the SPAS Alternative Study and SPAS FEIR came to hearing before the Los Angeles Planning Commission. [AR 16330-16331; 16633-16642, 16643-16649, 19077-19159 (transcript), 141511-141998 .] At the conclusion of the hearing, the planning commission recommended that Los Angeles' city council adopt the proposed LAX Specific Plan amendments encompassed within Alternative 1/Alternative 9; and any conforming general plan amendments. [AR 3410-3819, 19169.]

On March 8, 2013, Inglewood/Culver City crafted a 15-page letter to Los Angeles, devoted to noise, air quality and traffic impacts associated with the FEIR. [AR 20308-20317.] With respect to noise impacts, Inglewood/Culver City questioned the sufficiency of Los Angeles' proposed mitigation of providing sound insulation for all residences significantly impacted. [AR 20309-20310.] With respect to air quality impacts, Inglewood/Culver City challenged the legitimacy of EDMS representations in its modeling literature that reverse thrust emissions calculations had been properly included. [AR 20310-20316.] Also with respect to air quality, Inglewood/Culver City, *inter alia*, questioned the validity of the EDMS air quality model utilized without establishing the legitimacy of its underlying default engine assignment assumptions. [AR 20316-20317.]

Inglewood/Culver City also took issue with the determination in the FEIR of thresholds of significance for various traffic intersections within Culver City. [AR 20318-20319.] Concerns were raised as to perceived attempts by Los Angeles to allocate responsibility for the cost of traffic intersection improvements within Culver City which would be necessitated by SPAS-related impacts. [*Id.*] In addition to other concerns, Inglewood/Culver City questioned Los Angeles' citation to *California Oak Foundation v. Regents of the University of California*, *supra*, and to the federal NEPA regulations in delaying selection of the recommended alternative until after Los Angeles heard and considered public comment on the SPAS DEIR. [AR 20319-20320.]

The SPAS DEIR issued on July 27, 2012 following a 90-day public comment period and multiple public hearings, culminating in issuance of the FEIR on January 25, 2013, followed by further public hearings. On March 15, 2013, nearly five months *after* the close of public comments, Caltrans responded for the first time to the DEIR, "aware the official comment period of the environmental review has expired". [AR DA37035-37036.] Caltrans' two-page letter, *inter alia*, in addition to deferring to Los Angeles as lead agency on any project-level improvements to Lincoln Blvd., noted that Caltrans did not concur with Los Angeles' use of Congestion Management Program ["CMP"] methodology and impact criteria for I-405 freeway facilities and selected I-405 off-ramps, and should have instead utilized Caltrans' own Highway Capacity Manual ["HCM"] methodology. [*Id.*]

The SPAS Alternative Study and FEIR were next referred to an April 9, 2013 joint meeting of Los Angeles' Trade, Commerce and Tourism Committee ["TCT"] and Planning and

Land Use Management Committee ["PLUM"], each committee governed by three members of Los Angeles' City Council. [AR 16684 -16685, 16686-16712, 19281(audio), 140714-140723.] [54] The joint TCT/PLUM committees recommended, *inter alia*, that the City Council affirm BOAC's certification of the 2013 SPAS FEIR, and adopt the associated CEQA findings and statement of overriding considerations. [AR 3822.] The TCT committee recommended that the City Council deny ARSAC's appeal. [AR 69388.]

The SPAS Alternative Study and the corresponding SPAS FEIR came before the Los Angeles City Council on April 30, 2013. [AR 16930, 16934-16937, 19283 (video), 142044-142054, 142055-142072.] Among other things, Los Angeles staff presented diagrams showing the north airfield safety advantages of Alternative 1 over Alternatives 2, 4 and 7 [AR 142058-142059]; the advantages of a centerfield taxiway [AR 142060]; taxiing pilot line-of-sight issues over cross-runways [AR 142061]; the elimination of residential dwelling units from the northernmost RPZ associated with Alternative 1 [AR 142062]; FAA-standardized operations on the north airfield for 99.7% of operations under Alternative 1 [AR 142063]; lack of correlation of

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[54] As summarized by Los Angeles staff at the opening of that public hearing:

> "Based on exhaustive technical research and analysis, **approval allows staff to go forward and do detailed project sequencing and pre-design work**, so that we can answer some very specific questions about construction detail and timing. **The results of that next stage of work will be project-specific environmental impact reports. Each of those environmental impact reports will go to [BOAC], will come before you, and will come before the [City] Council. So no one should consider that construction is about to start tomorrow, or is around the corner**. If you and the [City] Council approve this programmatic EIR, there is more detailed work to accomplish and results will come before you." [AR 19281.]
>
> "The staff-preferred alternative represents what [Los Angeles] staff is proud to identify **as a reasonable compromise alternative balancing** these things: the needs of the nation's third-busiest airport; the needs of the Southern California interests that depend on **a safe and efficient airport; and the airport's neighboring communities**. It's a plan that is **more affordable, less environmental impactful, far more implementable**, and **requires less land acquisition** than the current [2004] Master Plan. [AR 19281.]
>
> "The recommendations cover two major sectors of LAX: the north airfield and landside improvements east of the central terminal area. **All alternatives stay within the limit of 153 gates and plan for a practical capacity of 78.9 million annual passengers as required in the Stipulated Settlement agreement**. The recommended airside plan separates the north runways an additional 260 feet, constructs a centerfield taxiway, and makes many other safety area and taxiway improvements." [AR 19281.] [Emphasis added.]

LAX runway geometrics to other large American international airports other than Dallas and Atlanta, both of which have centerfield taxiways [AR 142064-142065]; aircraft air emissions decreases associated with Alternative 1 over the *status quo ante* [AR 142066-142067]; advantages of Alternative 1 aircraft noise contours over both Alternative 2 and the *status quo ante* [AR 142068-142069]; off-airport traffic intersections significantly impacted by the proposed Specific Plan amendments, and those which can be mitigated to levels of insignificance [AR 142071]; and a map of the proposed Lincoln Blvd. realignment concept, noting, *inter alia*, that "a large segment of the realigned Lincoln [Blvd.] can be constructed on airport property without impacting traffic [AR 142072]".

By a vote of 10 to 3, after a lengthy and spirited public hearing, the City Council concurred with the decision of BOAC to approve the LAX Specific Plan amendments incorporating Alternative 1/Alternative 9; affirming BOAC's certification of the 2013 SPAS FEIR; and adopting the associated CEQA findings, SPAS mitigation program and statement of overriding considerations. [AR 3823-3833, 19283.] Los Angeles filed its NOD on May 2, 2013. [AR 1.]

The City ordinance adopting the LAX Specific Plan amendments was read into the record on May 14, 2013 [AR 16961, 16966-16967, 19297 (video)]; and re-read and approved May 21, 2013 [AR 16978, 16981, 19300 (video)], again by vote of 10 to 3. [AR 2872-3874, 3875-3891 (ordinance).] A follow-up NOD was filed on May 22, 2013. [AR 3.]

The Petitions for Writ of Mandate

On May 30, 2013, three separate verified petitions for writ of mandate were filed with the Los Angeles County Superior Court. The first filed petition, BS142292, was filed by the SEIU United Service Workers West ["SEIU"]. The SEIU action was subsequently dismissed on October 29, 2014.

The second filed petition, case BS143086, was submitted by petitioner ARSAC. This petition is currently pending.

The third and final *mandamus* petition was filed by petitioners Inglewood/Culver City, in conjunction with the City of Ontario and the County of San Bernardino. A request for dismissal

with prejudice was submitted by both Ontario and San Bernardino County on December 28, 2015. The petition from Inglewood/Culver City remains pending.

The named respondents in each of the three petitions were identical: the City of Los Angeles; Los Angeles' City Council; Los Angeles' then-mayor, Anthony Villaraigosa; Los Angeles' airport division, BOAC; and BOAC's executive director, Gina Marie Lindsey [all collectively "Los Angeles"].

All of the original petitioners, including those now dismissed, stipulated to consolidate the three petitions "for all purposes except judgment". On September 17, 2013, Judge Allan Goodman consolidated all three matters, reserving "a separate judgment in each case".

All of the original petitioners further stipulated to change venue to the County of Ventura pursuant to the requirements of Code of Civil Procedure §394(a) [one city brings an action against another city situated in the same county]. On December 10, 2013, Judge Goodman rejected the stipulation due to the possibility of delay, without prejudice to a subsequent motion to change venue. On February 28, 2014, Judge Goodman granted Los Angeles' motion to change venue. The matter was transferred to this court under the consolidated case number 56-2014-00451038-CU-WM-OXN.

Los Angeles answered each verified petition by verified answer on May 1, 2014.

Once transferred, counsel and the court spent many months working together to set the administrative record; rendered even more complex by the many years of project evolution and the extraordinary number of electronic communications and attachments generated across a multitude of subject matters amongst a vast array of employees, consultants and interested third parties. The administrative record was deemed complete and certified on June 12, 2015. The parties' respective briefs were then timely filed.

On January 19, 2016, this court, *inter alia*, ruled upon a series of pretrial motions, including requests by Inglewood/Culver City for judicial notice of documents outside the administrative record. This court determined to consider only those documents in existence at or before the time Los Angeles issued its CEQA notice of determination, which documents could conceivably have been considered by the City Council in rendering its FEIR certification

decision . See, *e.g.*, *Friends of Kings River v. County of Fresno* (2014) 232 Cal.App.4th 105, 119; *Silverado Modjeska Recreation & Park Dist. v. County of Orange* (2011) 197 Cal.App.4th 282, 307.

The case proceeded to oral argument on January 20 (petitioners), January 21 (respondents) and January 26, 2016 (petitioners' reply). Inglewood/Culver City addressed the court through their attorneys, Barbara Lichman, Joanne Davies and Paul Fraidenburgh of the firm Buchalter Nemer. ARSAC addressed the court through its attorney Douglas Carstens, of the firm Chatten-Brown & Carstens. Los Angeles addressed the court through its attorneys Suzanne Tracy of the Office of the City Attorney; Margaret Sohagi, Nicole Gordon and R. Tyson Sohagi, of the firm The Sohagi Law Group, PLC; Whitman Manley, of the firm Remy Moose Manley, LLP; and John Putnam (appearing *pro hac vice* upon leave of court) of the law firm Kaplan Kirsch and Rockwell, LLP. The quality of each of the parties' written briefs and respective counsel's oral advocacy skills was extraordinary.

This court took the matter under submission upon conclusion of closing arguments on January 26, 2016.[55] This opinion and ruling follows.

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[55] After the petitioners' briefs were filed, on August 10, 2015, Inglewood/Culver City filed a "Notice of Supplemental Authority" with additional legal argument. Los Angeles responded with an objection. On December 23, 2015, after Los Angeles' opposing briefs were filed, Los Angeles filed a "Notice of New Authorities" with some contextual discussion. Inglewood/Culver City responded with an objection. The court receives all supplemental authorities filed, but not further argument. On January 26, 2016, at the conclusion of closing argument, Los Angeles submitted for filing a copy of its PowerPoint presentation. Inglewood/Culver City responded with an objection. The court orders the PowerPoint lodged for purposes of review, but does not receive it as evidence.

On March 7, 2016, weeks after this matter was submitted for decision, and well into the drafting of this ruling , ARSAC and Los Angeles asked this court by stipulation to defer ruling upon the ARSAC petition until after March 24, 2016. Many of the *mandamus* arguments of Inglewood/Culver City and ARSAC are interrelated, and this consolidated order combines all CEQA arguments into one comprehensive ruling. Further, at the time of oral argument, the various petitioners indicated that their respective briefs had been "coordinated"; requesting joinder of arguments. Still, there was sufficient time between March 24, 2016 and expiration of this court's constitutional/statutory limit of 90 days (Cal. Const., art. VI, § 19; Gov. Code, § 68210) in which to issue an opinion in large part redrafting this consolidated order.

On March 23, 2016, however, ARSAC and Los Angeles further asked this court to wait until beyond the constitutional/statutory 90-day allowance, until May 2, 2016, to issue that portion of its order pertaining to ARSAC only. The most recent request contravenes this court's constitutional obligation to timely decide this case after submission. This court opts to follow the path directed by the California Constitution. Despite the consolidated opinion, this court has every intention of enforcing Judge Goodman's pre-trial order that separate *judgments* be entered as to each petition.

I

IT WAS NOT A VIOLATION OF CEQA FOR LOS ANGELES TO DEFER RECOMMENDING A PROJECT ALTERNATIVE UNTIL AFTER LOS ANGELES HEARD AND CONSIDERED PUBLIC COMMENT IN THIS PARTICULAR CASE

Inglewood/Culver City and ARSAC both contend that Los Angeles failed to proceed in the manner required by law by waiting until immediately *after* hearing public comment on the SPAS Alternative Study DEIR to render staff's recommendation of Alternative 1/Alternative 9, prior to any administrative adjudicatory hearings. [Inglewood/Culver City opening brief, at 14-22; ARSAC opening brief, at 19-24.] The argument, by focusing upon various references in CEQA to "the project", fails to consider the larger context of this particular DEIR, the goals and purposes to be served by the study of CEQA project alternatives, and petitioners' own binding stipulated settlement agreement.

A. The "Yellow Light" Carve-out of Alternative D is the CEQA Project Being Assessed

Courts have characterized administrative body consideration of project mitigation and alternatives to be the "core" of CEQA.[56] *In re Bay-Delta Programmatic Environmental Impact Report Coordinated Proceedings* ["*In re Bay-Delta*"] (2008) 43 Cal.3d 1143, 1162, citing *Citizens of Goleta Valley v. Board of Supervisors* ["*Goleta Valley II*"] (1990) 52 Cal.3d 553, 564. As set out in *Goleta Valley II*:

> "The Legislature has declared it the policy of the State to "consider alternatives to proposed actions affecting the environment." (Pub. Resources Code, § 21001, subd. (g); *Laurel Heights, supra*, 47 Cal.3d at p. 400.) Section 21002.1, subdivision (a) of the Public Resources Code provides: "The purpose of an environmental impact report is to identify the significant effects of a project on the environment, *to identify alternatives to the project*, and to indicate the manner in which those significant effects can be mitigated or avoided." See also Pub. Resources Code, § 21061 ['The purpose of an environmental impact report is . . . to list ways in which the significant effects of such a project might be minimized; *and to indicate alternatives to such a project*.'.]" [Italics in original.] (52 Cal.3d at 564.)

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[56] The California Supreme Court has referred to the underlying EIRs as the "heart" of CEQA. *Laurel Heights Improvement Assn. v. Regents of University of California* (1993) 6 Cal.4th 1112, 1123.

Because large-scale development projects require both feasibility and financing, there has always been tension between the timely and fair consideration of CEQA project alternatives and the "'**bureaucratic and financial momentum'** [building] irresistibly behind a proposed project, 'thus providing a strong incentive to ignore environmental concerns'." *Save Tara v. City of West Hollywood* ["*Save Tara*"](2008) 45 Cal.4th 116, 135, citing *Laurel Heights Improvement Assn. v. Regents of University of California* ["*Laurel Heights I*"] (1988) 47 Cal.3d 376, 390.)

Accordingly, to avoid a predetermined outcome in favor of the recommended project, the California Supreme Court in *Save Tara* notes its approval of CEQA cases emphasizing "the practical over the formal" in advancing the timing of CEQA review:

> "See [*e.g.*]... *No Oil, Inc.* [*v. City of Los Angeles* (1974) 13 Cal.3d 68,] 77 ['Statements must be written ... early enough so that whatever information is contained can practically serve as an input into the decision making process.']; see also *Citizens for Responsible Government v. City of Albany* (1997) 56 Cal.App.4th 1199, 1221 [CEQA review should not be delayed to the point where it would "call for a burdensome reconsideration of decisions already made"].) The full consideration of environmental effects [of] **CEQA** mandates **must not be reduced 'to a process whose result will be largely to generate paper, to produce an EIR that describes a journey whose destination is already predetermined**.' (*Natural Resources Defense Council, Inc. v. City of Los Angeles* (2002) 103 Cal.App.4th 268, 271.)" [Emphasis added.]

In this case, consistent with CEQA, **Los Angeles *did* identify and in fact approved the recommended project in its 2004 Master Plan and LAX Specific Plan DEIR and FEIR**. That recommended project, in accordance with the 2003 Supplemental EIR, is **Alternative D**. [AR 25139.] The "Yellow Light" components of Alternative D, *inter alia*, proposed relocating the southernmost northern runway 340 feet south, extending the northernmost runway, adding a new centerfield taxiway, demolition of Terminals 1, 2 and 3 and the existing CTA parking structures, replacement of the demolished terminals and parking structures with a new linear concourse, constructing an ITC at Aviation Blvd. and Imperial Hwy. with a pedestrian bridge to the MTA "Green Line', developing a Ground Transportation Center ["GTC"] at the northeast corner of Century Blvd. and Aviation Blvd., building a consolidated rental car facility ["CONRAC"] at what is now Parking Lot C, and linking the ground access facilities to the passenger terminals with an APM. [AR 22, 28, 220-221, 222-225, 4277, 4282 (map).]

In order to gauge the comparative impacts of the various SPAS alternatives to the project, the previously approved Alternative D "Yellow Light" components, the SPAS DEIR carries

Alternative D forward as SPAS DEIR Alternative 3. [AR 4277.] The fact that the previously approved LAX Specific Plan is labeled "3" rather than "D" in the SPAS DEIR does not lessen its import as *the* previously approved project, subject to the terms of the LAX Specific Plan and the parties' Stipulated Settlement.

B. The SPAS Alternatives Study and the SPAS DEIR are *Exactly* What Petitioners Bargained for under the 2006 Stipulated Settlement

The 2006 Stipulated Settlement resolved approval of the 2004 LAX Master Plan, and also, approval of the LAX Specific Plan, with the Specific Plan subject to the condition that the "Yellow Light" portions of approved Alternative D be reviewed and considered in a CEQA-compliant Alternative Study. [AR 376-417.] Stated simply, **as to the "Yellow Light" projects, each of the petitioners and Los Angeles effectively contracted amongst themselves to reconsider (collaboratively) and to rewrite for further public review the "Alternatives" chapter to the certified 2004 LAX Master Plan/LAX Specific Plan EIR/EIS.** [AR 25149-25238.] The 89-page 2004 LAX Master Plan/LAX Specific Plan EIR "Alternatives" chapter, over the course of the next eight years, was painstakingly considered, reconsidered and rewritten in the form of the 7829-page 2012 SPAS DEIR [AR 4230-12059].

Nowhere in the 2006 Stipulated Settlement is there a requirement that Los Angeles abandon Alternative D (labeled Alternative "3" in the Alternative Study). [AR 376-417.] *Nowhere* in the 2006 Stipulated Settlement is there a requirement that Los Angeles pre-select any "Yellow Light" project alternative in advance of comprehensive public consideration and comment.[*Id.*] Los Angeles' contractual mandate was to study and issue a report on alternatives to the "Yellow Light" portions of Alternative D. [*Id.*][57]

As if the parties' written stipulation was not sufficiently clear, on June 17, 2008, all petitioners *jointly* forwarded their "guiding principles" to Los Angeles, directing as follows:

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[57] As the 2006 Stipulated Settlement is expressly clarified by Los Angeles in its 2013 FEIR responses to comments:

> **"The Stipulated Settlement does not require the Yellow Light Projects to be replaced** by other projects that serve the same purposes... **[N]othing in the Stipulated Settlement requires [Los Angeles] to adopt ... Alternative Projects...[¶] In the absence of [further] amendment to the LAX Specific Plan, the CEQA "No Project" Alternative would be implementation of** the existing LAX Specific Plan (*i.e.*, LAX Master Plan **Alternative D**, which is also SPAS Alternative 3)." [AR 12561-12562.] [Emphasis added.]

"All [Yellow Light Project] alternatives should be subject to a full and fair evaluation in the SPAS DEIR and **[Los Angeles] to remain open to options that would avoid or mitigate impacts to its neighbors, taking care not to prematurely select a preferred alternative.**" [AR 6193.] [Emphasis added.]

Each SPAS alternative was analyzed in detail in the DEIR with respect to each category of potential impact. [AR 4230-6037.] Here, Los Angeles did *exactly* what it promised to do under the parties' Stipulated Settlement, following petitioners' express direction, with petitioners now using Los Angeles' compliance with that instruction to challenge the sufficiency of the SPAS DEIR.

LAX is not a stadium or a shopping mall. LAX is an *airport*. LAX airport operations are controlled and regulated by the FAA. [AR 4936.] Reading both the SPAS Alternative Study and the corresponding SPAS DEIR, it is uncontroverted that Alternative 5 is *the only option* that fully satisfies FAA's airfield standards for all current aircraft under every weather and visibility condition. [AR 4298, 4300, 4997-5005.]

If compliance with FAA passenger/aircraft **safety** standards to maintain LAX's raison d'être were not enough, Alternative 5 was determined to be the most environmentally sensitive alternative of the seven runway options in reducing new residential noise impacts. [AR 4341-4342.] Alternative 5 was therefore a *bona fide* project alternative. It would have been premature however, for Los Angeles staff to recommended Alternative 5 and either of the associated stand-alone ground transportation access options, before considering public comment.

Los Angeles staff, to its credit, deferred any recommendation in order to hear what the community had to say about the "Yellow Light" portions of Alternative D, as well as each of the eight SPAS alternatives to Alternative D. [AR 17867.] Once public comment was fully considered [AR 12394-13751], Los Angeles staff instead recommended a "compromise" runway/terminal alternative, Alternative 1, which proposal satisfied "most of the basic objectives" of the project (14 Cal.Code Regs.§15126.6(a)-(b)), and at the same time scaled back the 350-foot northernmost relocation runway identified in Alternative 5, in acknowledgment of the concerns of businesses and residents in Westchester and Playa del Rey. [AR 5, 12073, 19281.]

C. Staff's Post-DEIR, Pre-FEIR Recommendation of Alternative 1/Alternative 9 Does Not Require Recirculation of the DEIR

The *reason* a reasonable range of project alternatives are presented and vetted in an EIR is to provide the decision maker with *sufficient information* in order to consider and conceivably select an alternative project with less significant impacts. In the arguably uncommon circumstance where DEIR alternatives are not simply bureaucratic "window dressing" to satisfy CEQA, **where a project alternative *is* ultimately selected by the decision maker, there is no CEQA requirement that the DEIR be reissued and recirculated for public comment**.

By way of example, in *South County Citizens for Smart Growth v. County of Nevada* ["*South County Citizens*"] (2013) 221 Cal.App.4th 316, an application was submitted for retail development, including proposed fast food restaurants, placing a 25-foot buffer between the proposed development and onsite wetlands. (221 Cal.App.4th at 322.) The DEIR in *South County Citizens* considered four alternatives, including one alternative which would remove one commercial building and accommodate a 50-foot wetlands buffer. (Id., at 330-331.)

Following the release of the final EIR, county staff in *South County Citizens* recommended *a new alternative* involving reduction in the overall retail development, elimination of fast food restaurants due to traffic generation, adding ten acres of open space and increasing the wetlands buffer to 100 feet. (*Id.*, at 323.) The project proponent then submitted two new alternatives of its own, including one alternative with six acres of open space and a 20-foot buffer, plus a 50-foot "nondisturbance setback" to the wetland area. (*Id.*)

Neither the staff-recommended project alternative nor the two proponent-recommended alternatives were addressed at all in the *South County Citizens* DEIR or in the FEIR. (221 Cal.App.4th at 322-324.) The Nevada County Board of Supervisors nevertheless *adopted one of the post-FEIR developer alternatives* and certified the prior FEIR, even though neither the adopted alternative nor the staff recommendation was created until after FEIR issuance. (*Id.*, at 325.)

The appellate court in *South County Citizens* began its analysis with the fundamental proposition that a court "does not pass upon the correctness of the EIR's environmental conclusions, but only upon its sufficiency as an informative document." (221 Cal.App.4th at 325;

quoting *Laurel Heights I, supra*, 47 Cal.3d at 392.) Under CEQA, **recirculation is required "only when significant new information is added to the EIR after public notice is given of the availability of the draft EIR for public review but before certification".** (221 Cal.App.4th at 328; see also Pub.Res.C. §21092.1 and 14 Cal.Code Regs.§15088.5(a).)

The *South County Citizens* court rejected the petitioner's arguments that issuance of the post-FEIR new staff alternative was "significant new information" requiring DEIR recirculation and that "the public was deprived of the opportunity to comment on a feasible alternative in violation of CEQA's mandatory disclosure procedures". (221 Cal.App.4th at 329.) According to *South County Citizens*, in pertinent part:

> **"[Petitioner] does not identify any CEQA statute, guideline or judicial decision mandating that where an EIR includes a reasonable range of alternatives, then any additional alternative, even if proffered after the final EIR is released, must be added to the EIR or else the agency will not have proceeded in a manner required by law and will have violated CEQA's disclosure requirements.... Moreover, the failure to recirculate the final EIR is not a failure to proceed in the manner required by law unless the staff alternative meets the factual definition of 'significant new information'**." [Emphasis added.] (221 Cal.App.4th at 329.)

In *South County Citizens, supra*, petitioner failed to demonstrate through the administrative record how the post-FEIR staff alternative was "considerably different" from the four alternatives in its draft EIR or, more accurately under the applicable burden of proof, failed to establish why there is "no substantial evidence in the record to support the determination that the staff alternative was not considerably different" than those previously considered". (221 Cal.App.4th at 330-331.) [58]

In the instant action, the SPAS Alternative Study DEIR provides a reasonable range of alternatives, including specific alternatives advanced over a course of many years by each of the petitioners in this case. [Inglewood/Culver City -- Alternative 6 (runway 100' north); ARSAC -- Alternative 2 (no runway relocation).] No argument is made by any of the petitioners that the SPAS DEIR range of alternatives is not "reasonable".

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[58] The appellate court in *South County Citizens* recognized that the petitioner in these circumstances has "the burden of proving a double negative". (221 Cal.App.4th at 330.)

With that conceded premise, there can be no mandate of DEIR recirculation under the reasoning in *South County Citizens* in this case absent a "double negative" showing by petitioners of lack of substantial evidence in the administrative record to establish that the airfield/terminal components of SPAS Alternative 1 and the ground transportation access elements of SPAS Alternative 9 are "*not considerably different*" than the alternatives presented in the DEIR. Unlike the *post-FEIR* staff recommendation found in *South County Citizens*, and though it is neither Los Angeles' nor the court's burden to locate such substantial evidence in the record, **the DEIR here is replete with a complete analyses of the airfield/terminal components of SPAS Alternative 1 and the ground transportation access elements of SPAS Alternative 9 across all potential environmental impacts**. [AR 4230-6037.] Under the analysis of *South County Citizens*, therefore, the *pre-FEIR* staff recommendation of Alternative 1/Alternative 9 in this case does not require recirculation of the DEIR; nor does it conceivably deprive "the public of the opportunity to comment" upon the environmental impacts of those two SPAS alternatives (221 Cal.App.4th at 329-331); nor do any of the petitioners even attempt to satisfy their burden of proof on this point.[59]

Much of the argument of both Inglewood/Culver City and ARSAC on this issue [Inglewood/Culver City opening brief, at 14-18; ARSAC opening brief, at 19-24] conflates the comprehensive DEIR scrutiny associated with environmental review of the initially proposed project (here Alternative D), with the decision makers' ultimate ability to select a less environmentally significant project alternative without having to reissue and recirculate the original environmental documents. *South County Citizens*, *supra,* 221 Cal.App.4th at 329. Here, Los Angeles' comprehensive 2012 revision of the Alternatives chapter of the 2004 LAX Master Plan/LAX Specific Plan does not render the 2012 DEIR any less a renewed consideration of LAX Specific Plan project alternatives. To elevate the 2012 document to the status of a new and previously unknown CEQA project is to ignore both the Stipulated Settlement and the CEQA evolution of this project.

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[59] As noted in *South County Citizens*, petitioners' collective failure here *to set forth all the evidence favorable* to Los Angeles on this issue and then failing to show where that evidence is lacking, is "fatal to its claim". (221 Cal.App.4th at 331, citing *Defend the Bay v. City of Irvine* (2004) 119 Cal.App.4th 1261, 1265-1266.)

D. There Is and Has Always Been an "Accurate, Stable and Finite" Project Description

Because there must be a defined project for analysis of its prospective environmental impacts, for comparison to a reasonable range of project alternatives, and upon which to gauge the efficacy of proposed mitigation, one basic principle of CEQA is that there must be an "accurate, stable and finite" project description. [60] *County of Inyo v. City of Los Angeles* ["*County of Inyo*"] (1977) 71 Cal.App. 3d 185, 193. As that term first appeared in *County of Inyo*:

> "A curtailed or distorted project description may stultify the objectives of the reporting process. Only through an accurate view of the project may affected outsiders and public decision-makers balance the proposal's benefit against its environmental cost, consider mitigation measures, assess the advantage of terminating the proposal (i.e., the "no project" alternative) and weigh other alternatives in the balance. An accurate, stable and finite project description is the *sine qua non* of an informative and legally sufficient EIR." (71 Cal.App.3d at 193.)

The "adequate project description" issue, as distilled in the applicable body of CEQA case law in *Citizens for a Sustainable Treasure Island v. City and County of San Francisco* (2014) ["*Citizens for a Sustainable Treasure Island*"] 227 Cal.App.4th 1036, 1053–1055, is directed to whether "the basic characteristics of the Project under consideration ...remained accurate, stable, and finite throughout the EIR process". (227 Cal.App.4th at 1055.) Here, petitioners point to nothing in the LAX Master Plan/LAX Specific Plan Alternative D "Yellow Light" project description that was either "deficient or misleading", or ever changed in any material way. (227 Cal.App. 4th at 1055; AR 4320-12059, 20693-66251.)

In this case, nothing is "curtailed or distorted" in either Los Angeles' 2004 project description of Alternative D [AR 20693-66251] nor in the subsequent isolation of its "Yellow Light" components [AR 4320-12059]. And, though the doctrine has nothing to do with "stable" DEIR project alternatives, there is nothing "curtailed or distorted" in the project description of

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[60] Petitioners' "inadequate project description" contention is currently in vogue in CEQA cases as a "catch-all" to cover a variety of alleged EIR infirmities. (See, *e.g.*, *City of Irvine v. County of Orange* (2015) 238 Cal.App.4th 526, 541 [EIR baseline for traffic impacts out of sync with known construction schedule is *not* a CEQA adequate project description issue]; and *Citizens for a Sustainable Treasure Island v. City and County of San Francisco* (2014) 227 Cal.App.4th 1036, 1053–1055 [failure to include specific building and design decisions in a project-level EIR is *not* a CEQA adequate project description issue]).

the airfield/terminal components of SPAS Alternative 1 or in the ground transportation access components of Alternative 9. [AR 4320-12059.]

Here, petitioners specifically negotiated for what turned out to be a comprehensive eight-year study of project alternatives. For petitioners to now complain that the very compendium of alternative choices that they bargained for includes a description of more than one project alternative, is disingenuous.

Nor is it a violation of CEQA to allow a "mix-and-match" approach to project alternatives. In *California Oak Foundation v. Regents of University of California* (2010) 188 Cal.App.4th 227 ["*California Oak*"], the University of California certified an FEIR approving a series of seven different improvements across its Berkeley campus. (188 Cal.App. 4th at 241-242.) Over those seven different projects, the DEIR in *California Oak Foundation* identified four "integrated" project alternatives (other than the required "no project" alternative), which variously touched upon some of the seven primary projects collectively, but none of the seven projects individually. (188 Cal.App. 4th at 274.) According to the Alternatives chapter of the *California Oak Foundation* DEIR:

> "[T]he groupings of alternatives in the Draft EIR did not limit the ability of the UC Regents to select individual alternative projects from among them. Rather than an 'all or nothing' situation, **the consideration of alternatives allows for a 'mix-and-match' approach, in which components from different alternatives may be substituted for one another."**[Emphasis added.] (188 Cal.App. 4th at 275.)

The Court of Appeal in *California Oak Foundation* took no issue with this methodology, noting at 275-276:

> "[I]n preparing an EIR, **the lead agency need only make an objective, good faith effort to provide information** permitting a reasonable choice of alternatives that would feasibly attain most of the basic objectives of the project, while avoiding or substantially lessening the project's significant adverse environmental impacts. [Citations.] To that end, **an EIR's discussion of alternatives must be reasonably detailed, but not exhaustive**. [Citations.] **The key issue is whether the alternatives discussion encourages informed decision-making and public participation** [citing *Laurel Heights I, supra*, 47 Cal.3d at p.404.] Here, we believe the EIR's alternatives discussion meets the standard."

Because the 2012 SPAS Alternatives Study and accompanying DEIR is exactly that -- a study of alternatives to the "Yellow Light" components of the 2004 LAX Master Plan/Specific

Plan, the above-quoted standard on adequacy of discussion of alternatives is the totality of the litmus test for its sufficiency of the 2012 SPAS DEIR under CEQA. So the question becomes, **is the SPAS Alternatives Study DEIR discussion here "reasonably detailed"**, and **does that discussion "encourage informed decision-making and public participation"**? This court would likely not be speculating if it were to suggest that the 7829-page SPAS Alternatives Study analysis presented here may be *by far* the most detailed project alternatives chapter and analysis in the 45-year history of CEQA, and that the extraordinary number of well-attended public hearings and the breadth of the literally thousands of public comments received in this case corroborate that the alternatives discussion in the SPAS DEIR encouraged both "informed decision-making and public participation". [See. *e.g.*, AR 10-3911, 4229-12059, 15060-15201, 15335-15652, 15654-16942, 15310-15333, 17313-17363, 17364- 18242, 18243-18480, 18481-19295, 19316-19413, 19994-20013, 20014-20363, 141999-142011, 142012-142043.]

II

THERE IS NO "CUMULATIVE IMPACTS" DEFICIENCY

As petitioners' challenges to the program/planning level SPAS DEIR and FEIR have methodically progressed through this court, Los Angeles appears to be concurrently and proactively processing project-level review and collateral land use updates through city planning and public review at the administrative level. As part of their argument, Inglewood/Culver City assert that the 2012 SPAS DEIR, certified in subsequent FEIR-form by the City Council on April 30, 2013, does not adequately consider the specifics of certain project-level improvements *advanced last year* in 2015-- specifically the "LAX Landside Access Modernization Program"-- long *after* the City Council's SPAS FEIR certification. [Inglewood/Culver City opening brief, at 2, 3, 14, 16, 17, 18, 19, 20, 36; Inglewood/Culver City Request for Judicial Notice, filed July 31, 2015, at Exs. "B" (initial study) and "G" (Culver City comments on "Landside" NOP and initial study).]

As noted above, this court denied Inglewood/Culver City's request to judicially notice administrative documents rendered long after-the-fact and outside the record. (See *Friends of Kings River v. County of Fresno*, *supra*, 232 Cal.App.4th at 119.) Principles of proper administrative review compel that this court reject speculative "twinkle in the eye" arguments of

Inglewood/Culver City with respect to the current construction-level specifics of the LAX Landside Access Modernization Program.

Inglewood/Culver City also requested this court to judicially notice the concurrent pendency in 2012 of updates to the LAX "Northside" Plan. [Inglewood/Culver City Request for Judicial Notice, filed July 31, 2015, at Exs. "C" (initial study), "E" (notice of preparation) and "F" (Culver City comments on Northside NOP and initial study).][61] Inglewood/Culver City contend that Los Angeles did not properly consider the cumulative environmental impacts of an updated LAX Northside Plan within the planning level SPAS DEIR. [Inglewood/Culver City opening brief, at 3, 13-14, 17-18.]

Los Angeles justifiably complains that Inglewood/Culver City should be procedurally barred from making a Northside Project "cumulative impact" claim on Los Angeles' 2012 SPAS DEIR, because the issue was **never raised once** by anyone prior to Inglewood/Culver City's opening brief on administrative *mandamus* filed on July 31, 2015. [Los Angeles opposition to Inglewood/Culver City brief, at 5, 6 and 9.] In reply, Inglewood/Culver City cites the court to not one single reference in over a quarter of a million pages of administrative record where Inglewood/Culver City, or anyone else, discussed an alleged deficient analysis/consideration of the 1984 Northside Project or the 2012 Northside Project Update in the context of proposed project cumulative impacts or project alternative cumulative impacts. [Inglewood/Culver City reply brief, at 4-7.]

"Exhaustion of administrative remedies is **a jurisdictional prerequisite"** to maintenance of a CEQA action. *North Coast Rivers Alliance v. Marin Municipal Water Dist. Bd. of Directors* ["*North Coast Rivers Alliance*"] (2013) 216 Cal.App.4th 614, 654 .) **It is the burden of the CEQA petitioner to establish that administrative remedies have been exhausted.** [*Id.*]

The exhaustion doctrine under CEQA is set forth in *North Coast Rivers Alliance*, at 653:

> " '**No [CEQA] action or proceeding may be brought ... unless the alleged grounds for noncompliance ... were presented to the public agency orally or in writing** ... .'

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[61] The 2012 LAX Northside Plan update initial study is already a part of the certified administrative record. [AR 125685-125730.] This court judicially notices exhibits "E" and "F".

> [Citations.] " 'The essence of the exhaustion doctrine is the public agency's opportunity to receive and respond to articulated factual issues and legal theories before its actions are subjected to judicial review.' " [Citations.] Comments must express concerns so the lead agency has " ' " 'its opportunity to act and to render litigation unnecessary.' " ' " [Citation.] "**The purposes of the doctrine are not satisfied if the objections are not sufficiently specific so as to allow the Agency the opportunity to evaluate and respond** to them." [Citation.] " ' "[R]elatively ... bland and general references to environmental matters" ... , or **"isolated and unelaborated comment[s]" ' " do not satisfy the exhaustion requirement**. [Citation.]) **Rather, " '[t]he "exact issue" must have been presented to the administrative agency** ... .' "[Citation.] Requiring anything less "would enable litigants to narrow, obscure, or even omit their arguments before the final administrative authority because they could possibly obtain a more favorable decision from a trial court." [Citation.] [Emphasis added.]

Though Inglewood/Culver City seek the umbrella of the modicum of latitude on issue exactitude afforded non-attorneys later challenging administrative proceedings [Inglewood/ Culver City reply, at 5], here each of the petitioners *has been represented by counsel* at the administrative level for more than a decade, with each counsel weighing in at each and every step of the administrative process, both in terms of lengthy and specific written objections, and in terms of advocacy at the numerous administrative hearings.

Inglewood/Culver City's failure to *ever* raise an administrative claim of insufficient cumulative impacts analysis associated with the LAX Northside Project is telling, because that failure carried forward for more than two years into this litigation. The alleged inadequacy of cumulative impacts analysis of the approved 1984 Northside Project or the 2012 Northside Project Update NOP is *not mentioned anywhere* in Inglewood/Culver City's 155-paragraph petition for writ of mandate filed in this case on May 30, 2013; *nor is it mentioned* in Inglewood/Culver City's statutory Statement of Issues filed May 1, 2014.

Inglewood/Culver City propose to meet their burden of exhaustion of remedies on this issue by generally referencing the court to over 120 pages of administrative "lawyer letters" [Inglewood/Culver City reply, at 5]; again with no specific reference to any page of that record in which the LAX Northside Project is discussed in the context of DEIR cumulative impacts analysis. Inglewood/Culver City fail to meet their burden of establishing exhaustion of administrative remedies.

Beyond the fatal procedural shortcomings, Inglewood/Culver City's position on the adequacy of the SPAS DEIR cumulative impacts analysis also fails substantively.

The LAX Northside Plan was **approved** by Los Angeles **in 1984** to develop up to **4.5 million square feet** of commercial, public and recreational improvements. [AR 125694.] The 1984 Northside Plan entitlements were incorporated into the approved 2004 LAX Specific Plan [AR 64427, 64434-64443.]

The 142-page "cumulative impacts" chapter of the 2012 SPAS DEIR analyzes and compares SPAS alternative-related cumulative impacts, including those specifically associated with the airfield/terminal improvements proposed in SPAS Alternative 1 and the ground transportation access improvements proposed in SPAS Alternative 9. [AR 5844-5985]. Canvassing all other pending projects to be considered in its cumulative impacts analysis, the 2012 SPAS DEIR calls out the approved 1984 Northside Plan with the following description:

> LAX Northside - Development of LAX Northside area with a mix of employment, retail, restaurant, office, hotel, research and development, education, civic, airport support, recreation, and buffer uses that support the needs of surrounding communities and [LAX]. **The approved development plan provides entitlements for up to 4.5 million square feet of development**, subject to a limitation on the total number of vehicle trips (a "trip cap"). **Formulation of a new *reduced* land use development program for the subject area is currently in process, which will be followed by completion of environmental review studies.** Schedule for development to be determined." [Emphasis added.] [AR 5864.]

The then-pending 2012 LAX Northside Plan Update did indeed propose **to reduce** the approved area of future Northside development **from 4.5 million square** feet of development downward **to 2.32 million square feet**. [AR 125694, 125698 (map).] While acknowledging the existence of the proposed reduced 2012 LAX Northside Plan development update, the SPAS DEIR cumulative impacts analysis nevertheless specifically analyzes for cumulative impacts calculations over the considerably more intensive 4.5 million LAX Northside Plan approvals from 1984 as though completed. [See, *e.g.*, AR 5939-5940—SPAS Alternative 1.]

The cumulative impacts analysis of an EIR is designed to gauge "the incremental impact of the [proposed] project when added to other closely related past, present, and reasonably foreseeable probable future projects". *North Coast Rivers Alliance v. Kawamura* (2016) 243 Cal. App. 4th 647, 682. There is no similar requirement under CEQA for an EIR to provide a separate and comprehensive cumulative impacts analysis chapter for each proposed

project alternative. There is nevertheless substantial evidence in the record to establish that in this case Los Angeles properly considered the cumulative impacts of the LAX Northside Plan upon the various SPAS Alternatives, including the Alternative 1 and Alternative 9 specific plan amendments ultimately adopted. [AR 5844-5985].[62]

The claimed insufficiency of the 2012 SPAS DEIR cumulative impacts analysis associated with the LAX Northside Plan is both procedurally and substantively without merit.

III

THERE IS NO PROJECT "PIECEMEALING" DEFICIENCY

CEQA strongly encourages the tiering of **EIRs**, which "**shall be tiered whenever feasible**, as determined by the lead agency". (Pub.Res.C.§21093(b).)

Los Angeles' 2012 SPAS DEIR is unequivocal when it declares that the LAX Specific Plan Alternatives Study is intended to be used as **a programmatic land use planning level document, not a construction level "project" document.** [AR 178.] As articulated in the SPAS DEIR:

> "**The nine SPAS alternatives were formulated at a programmatic level of conceptual planning, and no design or engineering plans, or construction phasing plans or schedules, are available for any of the alternatives**. In general, however, it is assumed that all of the improvements proposed under each alternative would be completed by 2025, with construction beginning in 2015." [Emphasis added.] [AR 178.]

Given the planning timelines, though the documents are inadmissible because of their post-certification dates of generation, Los Angeles **in 2015** issued its initial study and NOP for certain Alternative 9 **project-level** construction, *inter alia*, of the APM, the ITC, the CONRAC, and related airport traffic access improvements, known as the "LAX Landside Project". Inglewood/Culver City seek to springboard from those inadmissible 2015 construction level CEQA "project" documents to argue that Los Angeles is impermissibly "piecemealing" the 2012 SPAS alternatives programmatic DEIR. [Inglewood/Culver City opening brief, at 18-22.]

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[62] As noted above, under applicable CEQA *mandamus* review standards, Inglewood/Culver City forfeits this argument by failing to identify all of the substantial evidence in the record favoring Los Angeles, and then showing where that evidence is lacking. (*South County Citizens*, *supra*, 221 Cal.App.4th 316, at 331.]

Beyond inappropriate reliance upon information the City Council could not conceivably have considered at the time of SPAS FEIR certification in 2013, the argument misconstrues the very definition and concept of a program level EIR.[63]

As summarized by the California Supreme Court in *In re Bay Delta*, *supra*, 43 Cal.3d 1143, 1169-1170:

> "A program EIR... is 'an EIR which may be prepared on **a series of actions that can be characterized as one large project" and are related in specified ways**. (Cal. Code Regs., tit. 14, § 15168, subd. (a).) An advantage of using a program EIR is that it can "[a]llow the lead agency to consider broad policy alternatives and program wide mitigation measures at an early time when the agency has greater flexibility to deal with basic problems or cumulative impacts." (*Id.*, § 15168, subd. (b)(4).) Accordingly, **a *program* EIR is distinct from a *project* EIR, which is prepared for a specific project and must examine in detail site-specific considerations**. (*Id.*, § 15161.)"
>
> **"Program EIR's are commonly used in conjunction with the process of tiering.** [Citation.] **Tiering is "the coverage of general matters in broader EIRs (such as on general plans or policy statements) with subsequent narrower EIRs** ... ." (Cal. Code Regs., tit. 14, § 15385.) Tiering is proper "when it helps a public agency to focus upon the issues ripe for decision at each level of environmental review and in order to exclude duplicative analysis of environmental effects examined in previous environmental impact reports." (Pub. Resources Code, § 21093, subd. (a); see also Cal. Code Regs., tit. 14, § 15385, subd. (b).)"
>
> "In addressing the appropriate amount of detail required at different stages in the tiering process, the CEQA Guidelines state that "[w]here a lead agency is using the tiering process in connection with an EIR for a large-scale planning approval, **such as a general plan or component thereof** ... , the development of detailed, site-specific information may not be feasible but can be deferred, in many instances, until such time as the lead agency prepares a future environmental document in connection with a project of a more limited geographic scale, as long as deferral does not prevent adequate identification of significant effects of the planning approval at hand." (Cal. Code Regs., tit. 14, § 15152, subd. (c).) This court has explained that **"[t]iering is properly used to defer analysis of environmental impacts and mitigation measures to later phases when the impacts or**

[63] Inglewood/Culver City claim that Los Angeles is "overeager" in following up its programmatic 2012 SPAS DEIR and 2013 SPAS FEIR approval, by initiating a portion of the amended LAX Specific Plan approvals at a project level in 2015. [Inglewood/Culver City opening brief, at 19.] There is no injunction prohibiting Los Angeles from moving forward to process subsequent project level approvals, nor has any provisional injunctive relief been requested. Any problems or issues that Inglewood/Culver City may have with respect to alleged idiosyncrasies of the 2015 LAX Landside Project can, should, and no doubt will be brought up by petitioners during the administrative CEQA review process specific to that tiered construction level project.

mitigation measures are not determined by the first-tier approval decision but are specific to the later phases. [Citation]." [Emphasis added; italics in original.]

A specific plan is a local legislative enactment that implements the development policies of a city or county's general plan for all or part of the area covered by the general plan. (Govt. C. §65450.) A specific plan is subject to public review and comment, reviewed by other affected local agencies, and, as here, approved by the agency's planning commission and the agency's legislative body. (Govt. C. §§65351-65356; *South Sutter, LLC v. LJ Sutter Partners, LP* (2011) 193 Cal. App. 4th 634, 638.) Because a specific plan is a land use planning document with a potential litany of development components within a specific plan area, it is not uncommon for a specific plan to be prepared as **a program EIR** under CEQA. (See, *e.g., Concerned Dublin Citizens v. City of Dublin* (2013) 214 Cal. App. 4th 1301, 1305-1306; *Save the Sunset Strip Coalition v. City of West Hollywood* (2001) 87 Cal.App.4th 1172, 1175.)

"**The level of specificity of an EIR is determined by the nature of the project and the 'rule of reason'**... rather than any semantic label accorded to the EIR." (*City of Irvine v. County of Orange* (2015) 238 Cal.App.4th 526, 538, quoting *California Oak Foundation, supra,* 188 Cal.App.4th at 271 [fn. 25.].) The 2012 SPAS DEIR, as discussed above, is the culmination of a 2006 litigation settlement to develop and consider potential further project alternatives to a handful of components of the 2004 LAX Specific Plan. The 2004 LAX Specific Plan components to be analyzed included alternatives to otherwise approved north runway geometrics and alternatives to otherwise approved off-airport ground transportation access improvements.

The level of detail required in the 2012 SPAS Alternative Study and the associated 2012 SPAS DEIR would in theory be no more than what the study in fact is-- a stand-alone supplement to the Alternatives Chapter of the **programmatic** 2004 LAX Master Plan/LAX Specific Plan EIR/EIS, the latter a multi-faceted planning document for overall airport operations in which no one presumably would demand detailed construction-level blueprints and construction phasing on each of the many anticipated components. [AR 20696, identifying the 2004 LAX Specific Plan as "a principal mechanism" designed, *inter alia*, to "**establish[] procedures for future specific projects** and activities that are anticipated under the LAX Master Plan Program".]

An agency's use of a program or "tiered" approach to an EIR by definition involves greater project specificity as the agency approaches construction project level EIR. For example, in *Al Larson Boat Shop, Inc. v. Board of Harbor Commissioners* ["*Al Larson*"] (1993) 18 Cal. App. 4th 729, cited with approval by the California Supreme Court in *In re Bay Delta, supra*, 43 Cal.3d 1143, at 1176, the Long Beach Board of Harbor Commissioners adopted a five-year amendment to its port master plan, covering six different "anticipated" development projects within the port district. [18 Cal.App.4th at 736-737.] **At the very same time** it processed the EIR on the master plan amendment, the harbor board in *Al Larson* also considered and approved more detailed project level EIRs on two of the six anticipated construction projects. [*Id.*, at 737.]

According to the *Al Larson* court, "[T]he fact that the two project-specific EIR's contained more detailed information than the FEIR on those projects, does not render the [Master Plan] FEIR inadequate". [18 Cal.App.4th at 747.]

> "**An FEIR need only conform with the general rule of reason in analyzing the impact of future projects, and may reasonably leave many specifics to future EIR's.** CEQA recognizes that environmental studies in connection with amendments to a general plan will be, on balance, general."
>
> **"Deferral of more detailed analysis to a project EIR is legitimate.** It has been held that 'where practical considerations prohibit devising such measures early in the planning process (e.g., at the general plan amendment or rezone stage), **the agency can commit itself to eventually devising measures that will satisfy specific performance criteria articulated at the time of project approval**...'[Citation.]" [18 Cal.App.4th at 747.] [Emphasis added.]

Improper **"piecemealing"** under CEQA **occurs where a project is split into segments** with the result that its environmental impacts "become submerged by chopping a large project into many little ones -- each with minimal potential impact on the environment -- which cumulatively may have disastrous consequences." (*Bozung v. Local Agency Formation Com.* (1975) 13 Cal.3d 263, 283-284.) While subsequent "piecemealing case law defies easy harmonization" (*Banning Ranch Conservancy v. City of Newport Beach* (2012) 211 Cal. App. 4th 1209, 1223), the critical point here is that Los Angeles' use of a program or "tiered" EIR for consideration of the 2012 Specific Plan Amendment Study is **by definition anticipatory of more detailed project-level CEQA review of the various anticipated LAX Specific Plan improvements.**

In its resolution certifying the SPAS FEIR, BOAC specifically determined the adoption of SPAS Alternative 1 (airfield/terminals) and Alternative 9 (ground transportation access) to be "the best alternative to the problems that the Yellow Light Projects were designed to address, **subject to future detailed planning, engineering, and project-level environmental review, such as project-level review of individual improvements under CEQA** ...". [Emphasis added.] [AR 9]. Inglewood/Culver City, bearing the burden of proof, cite absolutely nothing in the extensive administrative record remotely suggesting that the 2012 SPAS Alternative Study or the programmatic SPAS DEIR in any way seeks to "chop a large project into many little ones".[64]

Through its comprehensive program level SPAS DEIR, Los Angeles is expressly following legislative and regulatory direction on each of the contested "Yellow Light" components by tiering any and all future project level CEQA review and construction approvals upon the program document. [AR 9; Pub.Res.C.§21093(b).] There has been no improper "piecemealing" of the SPAS Alternatives Study project.

IV

AIRPORT CAPACITY OF 78.9 MAP WITH A 153 GATE LIMITATION MEANS AIRPORT *CAPACITY* NO MATTER HOW YOU SLICE IT

A. There is Substantial Evidence Negating the Claim of Growth-Inducing Impacts

The fundamental principle in assessing airport capacity is to examine the capability of the "weakest link": "**The most constraining component of an airport defines the practical capacity of the entire airport.**" [AR 25206.]

"As set forth in the 2004 LAX Master Plan/LAX Specific Plan FEIR, in pertinent part:

> "**The collection of system components that make up LAX** -- the **runways, taxiways, terminals, roads, and parking lots -- must have complementary capacity** to maintain the entire system's ability to move people and goods. If the airport's components, or system *links,* are not in balance, then **the highest capacity that the system can realize is that of its weakest link.** For example, **if LAX were to increase airfield capacity but make no changes to terminals and roads, the capacity of the airport would be limited to the capacity of those terminals and roads.**" [AR 25133.] [Emphasis added; italics in original.]

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[64] "Under CEQA, an EIR is presumed adequate (Pub.Res.C.§21167.3), and the plaintiff in a CEQA action has the burden of proving otherwise.[Citation.]" *Al Larson, supra,* 18 Cal.App.4th at 740.

Concluding with the most recent major terminal and runway upgrades to accommodate the 1984 Olympic Games, physical capacity at LAX capped at approximately 79 MAP. [AR 25133.] At the time of the 2004 LAX Master Plan/LAX Specific Plan, there were **165 passenger gates**. [AR 25164.] Under the four new project alternatives considered in 2004, Alternatives A and B (both 199 passenger gates) would have accommodated 97.9 MAP. [AR 25166, 25209.] Alternative C (168 passenger gates) would have accommodated 89.6 MAP. [*Id.*] Alternative D (153 passenger gates) was determined to accommodate **78.7 MAP**. [*Id.*] According to the findings in the 2004 FEIR:

> "Alternative D was designed to accommodate approximately the same level of passenger activity as the No Action/No Project Alternative. **The ability to increase aircraft size, thereby increasing passenger levels, was limited by the number and type of gates available** under the Alternative D terminal design." [Emphasis added.] [AR 25209.]

When the litigating parties, including petitioners, stipulated to resolve the lawsuits over the "Yellow Light" portions of Alternative D, the further alternative options to be collaboratively explored each required "a practical LAX capacity of 78.9 MAP". [AR 387.] The express terms of that Stipulated Settlement state in pertinent part:

> "**LAX currently has 163 total passenger aircraft gates** available for loading and unloading of passengers during scheduled aircraft operations. .... Except as provided [in the further obligation to incrementally reduce that total over time to 153 gates], **[Los Angeles] will operate no more than 163 passenger gates at LAX throughout the term of this Settlement**. As noted in the FAA's Record of Decision for the Proposed LAX Master Plan Improvements ('ROD') (May 20, 2005) on page 17, **one objective** of the LAX Master Plan is to improve the efficiency of passenger operations while also, **'encouraging, but not requiring, other airports in the Los Angeles Basin to increase capacity**." According to the ROD "**[t]his is accomplished by restricting the overall availability of gates where [LAX] passengers will board and exit an aircraft**".'" [Emphasis added.] [AR 385.]

The balance of the Stipulated Settlement, *inter alia*, requires Los Angeles, once passenger operations exceed 75 MAP, to incrementally reduce aircraft gates from 163 passenger gates downward to 153 passenger gates [AR 385], consistent with the requirements of Alternative D. The contractually stipulated restriction on the number of aircraft passenger gates as the "weakest link" mechanism to restrict LAX capacity was reinforced by petitioners in 2008 when their "joint guiding principles" declared as follows:

> **"[Los Angeles], FAA and the Petitioners all agree that limiting the number of gates at LAX will promote efficient passenger operations and encourage other airports in the Los Angeles basin to increase capacity to serve aviation demand. Accordingly, the long term success of the regional approach to serving aviation demand depends on maintaining appropriate gate constraints at LAX."** [AR 6193.]

In compliance, the 2012 SPAS preliminary Alternatives Study designed all nine project alternatives with only 153 passenger gates. [AR 54, 60, 184, 4272.] In its DEIR section discussion of the lack of significant "growth-inducing impacts" of the SPAS Alternatives Study, the SPAS DEIR notes:

> **"The projected future increase in passenger activity levels at LAX in 2025**, the planning horizon year for the SPAS analysis, **is the same for all alternatives - 78.9 million annual passengers (MAP), which would occur at that same level even if none of the SPAS alternatives were to be implemented. This projected increase in future passenger activity levels at LAX is consistent with regional growth forecasts, including the adopted 2012 Southern California Association of Governments (SCAG) Regional Transportation Plan (RTP).**" [Emphasis added.] [AR 6002.]

Los Angeles' continued adherence to the agreed-upon LAX 153 passenger gate limitation across all alternatives resulted in Stipulated Settlement signatory El Segundo's comment on the 2012 SPAS DEIR that the Alternatives Study "sends a clear message that Los Angeles is committed to the regionalization of aviation… .". [AR 14461.]

In the face of uncontroverted evidence that the limitation on number of passenger gates controls the number of possible airport "operations" beyond 78.9 MAP, Inglewood/Culver City assert that the 78.9 MAP passenger count threshold they stipulated to in 2006 and formed the core of their "joint guiding principles" in 2008 was "an arbitrarily chosen term of the SPAS EIR"; and further argue that "an increase in 'capacity' enabled by Alternative 1 runway changes "has serious implications for the number of aircraft operations, and off airport roadways in traffic, and the level of emissions emanating, directly and indirectly, from the project." [Inglewood/Culver City opening brief, at 22-24.] This claim is directly contradicted by substantial evidence in the administrative record.

The term "throughput" refers to the maximum number of aircraft arrival and departure operations that can occur during a "peak" hour in any 24-hour period at a given airport. [AR

2402, 12568.][65] As part of its 2012 SPAS Alternatives Study, Los Angeles commissioned a comprehensive "throughput" analysis inputting the differences among proposed SPAS north runway alternatives. Using industry-standard FAA simulation model "SIMMOD" [AR 2362], the analysis calculated the differential in airport operations efficiencies. [AR 2356-2469.]

The LAX SIMMOD model concluded that SPAS Alternative 1, given all of its features, could handle a total of up to 134 all-weather aircraft operations during the peak hour at LAX. [AR 2407-2424.] SPAS Alternative 2, the alternative advanced and advocated by Inglewood/ Culver City, could also process up to 134 peak hour aircraft operations. [AR 2424-2434.] SPAS Alternative 3, the previously approved Alternative D, was capable of processing up to 135 peak hour aircraft operations. [AR 2435-2452; corrected at AR 12659.][66] SPAS Alterative 4, the "no runway relocation" alternative recommended by ARSAC, was likewise determined to handle up to 133 peak hour aircraft operations. [AR 2453-2468, 12659.] These very slight differences in peak hour operations capacity were deemed by the FEIR to be *de minimis*, as all are premised upon a 78.9 MAP projection for 2025. [AR 12569-12570.]

In order to render its "growth-inducing impact" claim, Inglewood/Culver City take great liberties with the administrative record by seeking to premise arguments upon a post-FEIR FAA press release issued January 23, 2015; an associated January 2015 "Aircraft Capacity Needs" report; a January 27, 2015 FAA Advisory Circular; and revised Southern California Association of Governments ["SCAG"] transportation projections handed out at a subcommittee meeting on July 23, 2015. [Inglewood/Culver City opening brief at 24-25, 26.] None of these inadmissible post-record items could conceivably have been considered by Los Angeles' City Council when it approved certification of the FEIR on April 30, 2013, nor do such post-record considerations have any place in an administrative *mandamus* review proceeding. *Friends of Kings River v.*

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[65] As the term is defined in the 2004 LAX Master Plan/LAX Specific Plan EIR: "[T]hroughput capacity... is the rate at which aircraft can be brought into or out of the airfield without regard to any delay they may experience. This definition assumes that aircraft will always be present waiting to take off or land and capacity is measured in terms of the number of such operations that can be accomplished in a given period of time." [AR 20716.]

[66] Inglewood/Culver City appear to find claim for error in the throughput *re*calculation of Alternative 3 efficiencies from 133 peak hour operations in the SIMMOD modeling study to 135 in the FEIR. [AR 2435-2452, 12659-12570.] [Inglewood/Culver City opening brief, 25-26.] Los Angeles, however, did not ultimately adopt the runway/terminal design of Alternative 3 nor did the FEIR find the differences among any of the alternatives' throughput calculations to be material. [AR 2435-2452, 12659-12570.]

County of Fresno, *supra*, 232 Cal.App. 4th at 119; *Silverado Modjeska Recreation & Park Dist. v County of Orange*, *supra*, 197 Cal.App.4t at 307.

Here, the DEIR identifies the lack of any significant growth-inducing impacts resulting from implementation of LAX "Yellow Light" project alternatives, in part due to the fact that passenger levels are projected to be at airport capacity of 78.9 MAP in 2025 with or without any SPAS project alternatives. [AR 6002.] On this point, Inglewood/Culver City fail to set forth all of the evidence favorable to Los Angeles and establish why that evidence is lacking. [*Citizens for a Sustainable Treasure Island*, *supra*, 227 Cal.App. 4th at 1064, citing *South Coast Citizens*, *supra*, 221 Cal.App.4th at 331.] Even without consideration of Inglewood/Culver City's failure to satisfy their burden of proof, the lack of growth-inducing impacts associated with a maximum 153 passenger gate airport is supported by substantial evidence in the record.

B. Substantial Evidence and Federal Deregulation Limitations Support the Adequacy of the 153 Passenger Gate Limitation as "Regional Solutions" Mitigation

As the "flip side" to Inglewood/Culver City's claim that SPAS Alternative 1/ Alternative 9 is materially growth-inducing, a proposition contradicted by substantial evidence in the record, ARSAC argues that the SPAS Specific Plan Amendment fails to include mitigation measures sufficiently redirecting passengers to other regional airports. [ARSAC opening brief, at 47-50.][67] ARSAC's claim is directly contradicted by the record and otherwise restricted by applicable federal law.

Prior to 2004, as long-term LAX passenger forecasts continued to rise, communities in the LAX vicinity championed "regional solutions" which could reallocate the impacts of increased air passenger transportation demands to other communities in the region. By its own description, however, the approved 2004 LAX Master Plan Alternative D *is* a "regional airport alternative", foregoing each of the three LAX airport capacity *expansion* options under the 2001 LAX Master Plan. [AR 20714.] The use of the 153 passenger gate limitation at full airport capacity under Alternative D was specifically designed to "encourage airlines to choose the most

[67] ARSAC failed to assert an "insufficient regional solutions mitigation" argument in either its petition for writ of mandate filed in 2013 or in its statutory statement of issues filed in 2014. In both documents, ARSAC argues "regional solutions" in terms of breadth of selection of project *alternatives*; and alleges inadequate mitigation measures in the context of specific scientific topics, but not as to infeasibility of mitigation of "regional solutions".

efficient use of the facilities at LAX and supplement high-frequency domestic service at other airports in the region". [AR 20723.]

Assessing regional air transportation demand, the 2004 LAX Master Plan notes "inadequate existing airport capacity in the region to serve long-term passenger demand". [AR 20727.] At such time as demand overcomes capacity, the 2004 LAX Master Plan projects that airlines will be compelled to use other "hub" airports outside the region to service connecting passengers, particularly on international flights. [AR 20727-20728.][68]

In the context of the approved 2004 LAX Master Plan, which through its restricted number of passenger gates is expressly designed to be *the* "regional solution", the parties signed the Stipulated Settlement, and ARSAC is a signatory. As noted above, the Stipulated Settlement declared: "[**O]ne objective** of the LAX Master Plan is to improve the efficiency of passenger operations while also, '**encouraging, but not requiring, other airports in the Los Angeles Basin to increase capacity**.'....**This is accomplished by restricting the overall availability of gates where passengers will board and exit an aircraft** [at LAX]". [AR 385.] In other words, under the parties' written settlement, the parties have already agreed to mitigation "encouraging" regional solutions; which agreed-upon mitigation was dutifully incorporated by Los Angeles into each proposed SPAS study alternative at the contractual maximum of 153 passenger gates. [AR 54, 60, 184, 4272.]

In performance of contractual mitigation of impacts of LAX operating at full capacity of 78.9 MAP, LAX is required under the Stipulated Settlement to ratchet down from 163 to 153 passenger gates once annual passenger count reaches 75 MAP. [AR 386.] In the specific context of the 2012 SPAS DEIR, even further mitigation is required at 75 MAP under the LAX Specific Plan Amendment by requiring Los Angeles to initiate a detailed survey/study to provide data for further regional strategies. [AR 5987, 12463-12464.][69] Finally, once airport capacity reaches its

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[68] Los Angeles has long served as the "primary gateway" to Asia/Pacific routes. [AR 20735].

[69] Among a variety of other capital improvements and strategies subsidized by Los Angeles over the course of time to support regional solutions, Los Angeles paid for a $244 million terminal expansion project at Ontario International Airport in 1998, and a "Fly Ontario" advertising campaign beginning in 2005. [AR 12465.] It can be fairly concluded from the record that these efforts were for the most part successful as "passenger levels in 2011 [at LAX were] essentially the same as they were in 1998". [AR 12633-12634.] A substantial series of management initiatives and marketing efforts were commenced by Los Angeles in 2012 to further stimulate passenger redistribution to other regional airports. [AR 12465-12466.]

de facto operational limit of 78.9 MAP, the LAX Specific Plan Amendment requires yet another CEQA-compliant SPAS study. [*Id.*]

The 2012 SPAS projections analyze environmental impacts of the SPAS alternatives at LAX's operational capacity (on 153 passenger gates) of 78.9 MAP. [AR 4269.] LAX is not projected to reach that capacity until 2024. [AR 2223.] LAX has never operated at 75 MAP or at its 78.9 MAP capacity. [*Id.*] Once LAX reaches capacity, there are by definition no additional impacts, because the airport is operating *at capacity*. Under the 153 passenger gate limitation of SPAS Alternative 1/Alternative 9, there is simply no option of accommodating further expansion or the need to adopt "regional solutions" as an alternative to unauthorized further expansion. As noted in the formal response to comments: "**Regionalization was not included in the [SPAS] project objectives because it is built into the SPAS project description itself**". [AR 12463.]

Assuming ARSAC is arguing that Los Angeles should endeavor to operate at *less than* airport capacity of 78.9 MAP, despite an ever-increasing regional population and concomitant demand for air transportation, there are very strict limitations upon Los Angeles' ability to "redirect" or otherwise "incentivize" LAX passengers to other regional airports. "In 1978… Congress enacted the [Airline Deregulation Act], which sought to promote "efficiency, innovation, and low prices" in the airline industry through "maximum *reliance on competitive market forces and on actual and potential competition.* 49 U. S. C. §§40101(a)(6), (12)(A)." (*Northwest, Inc. v. Ginsberg* (2014) 572 U.S. __, 134 S. Ct. 1422, 1428.) Under the Airline Deregulation Act, a municipal entity such as **Los Angeles "may not enact or enforce a law, regulation, or other provision having the force and effect of law related to a price, route, or service of an air carrier** that may provide air transportation under this subpart. §41713(b)(1)". (*Id.*) [Emphasis added.][70]

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[70] As observed by the United States Supreme Court in *Northwest Airlines v. Minnesota* (1944) 322 US 292, 303:

> "Congress has recognized the national responsibility for regulating air commerce. Federal control is intensive and exclusive. **Planes do not wander about in the sky like vagrant clouds. They move only by federal permission, subject to federal inspection, in the hands of federally certified personnel and under an intricate system of federal commands.** The moment a ship taxis onto a runway it is caught up in an elaborate and detailed system of controls. It takes off only by instruction from the control tower, it travels on prescribed beams, it may be diverted from its intended landing, and it obeys signals and orders. **Its privileges, rights and protection, so far as transit is concerned, it owes to the Federal Government alone and not to any state government.**" [Emphasis added.]

Federal preemption *prohibiting* interference with air carrier "competitive market forces" is the reason the 2006 Stipulated Settlement limits Los Angeles to "*encouraging, but not requiring*" other airports in the Los Angeles basin to increase capacity". [AR 385, 12463.] Due to federal preemption limitations, the FAA Record of Decision on the 2004 LAX Master plan concludes that such encouragement shall be **"accomplished by restricting the overall availability of gates where [LAX] passengers will board and exit an aircraft".** [*Id.*] In its 2012 SPAS Alternative Study and in the 2012 SPAS DEIR, this is *exactly* what Los Angeles proposed, then added the above-stated further non-preempted mitigation, for each potential SPAS "Yellow Light" alternative. [AR 54, 60, 184, 4272.]

The court reviews the adequacy of CEQA mitigation measures under the "substantial evidence" standard of review. (*Citizens for a Sustainable Treasure Island, supra*, 227 Cal.App. 4th at 1060.) Here, the 153-gate restriction at LAX capacity of 78.9 MAP is the very mitigation recommended by the FAA, and expressly adopted by ARSAC as a signatory to the Stipulated Settlement. [AR 385.] Substantial evidence supports this limit as reasonable project mitigation, and ARSAC fails to establish how or why that evidence is lacking. (*Citizens for a Sustainable Treasure Island, supra*, 227 Cal.App. 4th at 1064, citing *South Coast Citizens, supra*, 221 Cal.App.4th at 331.)

V

THE EIR SUFFICIENTLY ANALYZES AIR QUALITY IMPACTS

A. Los Angeles' Use of the FAA-Required EDMS Model and Presentation of the Modeling Data Output Summary in the DEIR Appendix Are Sufficient to Satisfy CEQA

In the air quality analysis for each proposed "Yellow Light" alternative, the 2012 SPAS DEIR calculates and compares the individual and cumulative potential for production of sulfur dioxide (SO_2), carbon monoxide (CO), particulate matter of ≤ 10 μm diameter (PM_{10}), particulate matter of ≥ 2.5 μm diameter ($PM_{2.5}$), nitrogen dioxide (NO_2) and ozone (O_3); the latter category through calculation of volatile organic compounds (VOC) and nitrogen oxides (NO_X). [AR 4534-4536.] The SPAS DEIR calculates the air quality impacts associated with construction of each proposed SPAS alternative as well as future airport operations. [AR 4536-4545.] The scientific model used by Los Angeles in calculating "on-airport" emissions is the FAA-required air quality model known as "EDMS". [AR 4545.]

The state agency branch responsible for attaining state and federal air quality standards in the relevant portion of coastal Southern California, SCAQMD, maintains an air quality monitoring station less than 0.5 miles from the current LAX northernmost runway. [AR 4550.] That LAX monitoring station measures SO_2, CO, PM_{10} in NO_2 and O_3. [*Id.*] The nearest SCAQMD monitoring station calculating $PM_{2.5}$ concentrations is located in Long Beach. [*Id.*] [71]

The EDMS modeling study showed greatest anticipated air quality *construction* emissions associated with SPAS Alternative 3 [the former LAX Master Plan Alternative D], which not coincidently would involve the most intensive construction activity, followed by SPAS Alternative 5. [AR 4560-4571.] According to the modeling study, comparative *operational* air quality impacts varied among the proposed SPAS alternatives from contaminant-to-contaminant, varying on-airport to off-airport [AR 4571-4606], but in the final analysis there was no meaningful operational difference between any of the nine SPAS alternatives in terms of the determination of significance after mitigation. [AR 4607.][72]

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[71] The use of the SCAQMD monitoring station calculating $PM_{2.5}$ concentrations nearest is consistent with the CEQA guidelines governing SCAQMD, which directs that "**baseline information for the local air quality analysis should include information obtained from the nearest or most appropriate District air quality monitoring station**... ". [AR 119196.] ARSAC nevertheless contests Los Angeles' use of SCAQMD's $PM_{2.5}$ monitoring station in Long Beach, arguing that the data is a geographically remote source and therefore "irrelevant". [ARSAC opening brief, at 28.] The relevant SCAQMD air basin, however, consists of 6745 $mi.^2$ extending to all of Orange County and "the urban, non-desert portions of Los Angeles, Riverside and San Bernardino Counties". [AR 4548-4549.] Extrapolation of $PM_{2.5}$ concentrations to the immediate LAX vicinity is validated by the generally proportionate correlation to PM_{10} concentrations measured at the SCAQMD monitoring station less than 0.5 miles from the northernmost runway at LAX. [AR 4551.]

"A project opponent or reviewing court can always imagine some additional study or analysis that might provide helpful information. It is not for them to design the EIR. That further study ... might be helpful does not make it necessary.' [Citation.] Although others might well assess the significance of a risk ... differently, it is error for the court to substitute its judgment for that of the Agency.' [Citation.]" *North Coast Rivers Alliance v. Marin Municipal Water Dist. Bd. of Directors* (2013) 216 Cal.App.4th 614, 639-640. [See also14 Cal.Code Regs. §15204(a).]

At the time of the 2012 SPAS DEIR studies, year-to-year trends showed mild to moderate local regional increases in SO_2 and NO_2 concentrations, with significant decreases in PM_{10} and $PM_{2.5}$ particulate matter. [AR 4551.]

[72] There was similarly no difference in significance or lack of significance of post-mitigation air quality *construction* impacts among SPAS alternatives, except with respect to $PM_{2.5}$ particulate matter calculations for SPAS Alternative 4 (no "Yellow Light" improvements), which construction impact was less than significant after mitigation. [AR 4607.]

Specifically, with respect to SPAS Alternative 1, the EDMS model results established that **"Alternative 1 peak daily aircraft emissions for all criteria pollutants (CO, VOC, NO_X, SO_2, PM_{10} and $PM_{2.5}$) would be lower than aircraft emissions under Alternatives 2, 3, 4 and 7."** [AR 4581, 4588.] The *least* environmentally friendly SPAS alternative associated with air contamination due to aircraft *operations* was calculated by the EDMS model to be the "no Yellow Light project" option of SPAS Alternative 4. [AR 4583, 4600.] [73]

Supporting the findings of the air quality chapter of the 2012 SPAS DEIR is a 433-page DEIR appendix setting out the mathematical EDMS modeling output results for each alternative. [AR 6808-7241.] SCAQMD, when it reviewed the DEIR modeling results summary as well as the modeling data appendix, asked that Los Angeles, *inter alia*, augment the DEIR's proposed air quality mitigation measures, followed by a series of other requests, including the following:

> "The Draft EIR does not contain any description of **how emissions sources were treated in the dispersion model**. Without this key description of the modeling exercise, neither AQMD staff, nor the public, is able **to confirm the validity of the dispersion modeling analysis**. Key parameters that require additional clarification includes source type, placement, strength, dispersion parameters, etc. **The Final EIR should include a copy of the dispersion modeling input and output files as a separate appendix. AQMD staff also request that the input and output files be provided to us in their native format** (consistent with our request from our comment letter on the project's NOP)[74] **when available**." [Emphasis added.] [AR 14657.]

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[73] Under standard CEQA protocol, the statutory "no project" alternative is the scenario under which no *new* land use plan or entitlements move forward. Under the unique posture of this case, however, there is an *existing* City Council approval of Alternative D as part of the 2004 LAX Master Plan/LAX Specific Plan. The current CEQA review is in performance of the terms of the litigation settlement signed in 2006, which settlement does not retract the City Council's approval of Alternative D. It would require *further* City Council action to rescind LAX Master Plan approval of the Yellow Light portions of Alternative D; and therefore SPAS Alternative 4 (no Yellow Light projects) cannot be the definitional statutory "no project" alternative. [See discussion at AR 12567.] While it makes no practical difference because both alternatives are an integral part of the SPAS Alternatives Study, since no further City Council action would be required to effectuate the Yellow Light portions of Alternative D as previously approved, the label of "no project" alternative technically falls upon SPAS Alternative 3 (*i.e.*, LAX Master Plan Alternative D). [*Id.*]

[74] On March 25, 2008, at the time SCAQMD commented on the 2008 SPAS NOP, in addition to asking for a copy of the SPAS DEIR upon completion, SCAQMD also asked in advance for "all appendices or technical documents related to the air quality analysis and electronic versions of all air quality modeling and health risk assessment files". [AR 6183.]

Upon review of SCAQMD's comments to the SPAS DEIR, Los Angeles met with SCAQMD to provide the underlying data input and output spreadsheets. [AR 131649 and associated subfiles.] In its response to comments to SCAQMD [AR 12485-12513], in pertinent part, Los Angeles notes:

> "[Los Angeles] met with SCAQMD on November 29, 2012, at which [time] two CDs with **the detailed calculations and model input and output files were produced to SCAQMD. These files are available, upon request, in electronic format and also available for public review and hard copy at [Los Angeles'] Capital Programming and Planning Division**, Room 208, 1 World Way, Los Angeles, California. **Technical working files that delineate the EDMS input/output data would be approximately 60,000 to 80,000 pages long if printed**. Because of the sheer volume and lack of added value they provide, the technical working files were not included within the SPAS Draft EIR air quality technical appendix. Instead, the summary EDMs output results for each alternative was included in the 400+ page Appendix C of the SPAS Draft EIR. **The detailed input/output EDMS data were available upon request to [Los Angeles]** during the 75-day public review period of the SPAS Draft EIR." [Emphasis added.] [AR 12508.]

Seizing upon Los Angeles' decision to prepare 434 pages of summary output calculations derived from the 60,000-80,000 pages of EDMS modeling spreadsheets as its technical DEIR air quality appendix, Inglewood/Culver City present a litany of challenges to the air quality analysis of the 2012 SPAS DEIR, many of which contest accuracy of programming input and/or subsequent extrapolation under the EDMS model. [Inglewood/Culver City opening brief, at 27-34.]

The guiding principles as to the sufficiency of detail required in a DEIR were recently set out in *Citizens for a Sustainable Treasure Island*, supra, 227 Cal.App.4th at 1051-1052, which case states in pertinent part:

> "The level of detail in an EIR is driven by the nature of the project, not the label attached. 'It is the substance, rather than the form, of [the environmental] document which determines its nature and validity.' [Citation.] As a general statement of CEQA practice, '[t]he degree of specificity required in an EIR will correspond to the degree of specificity involved in the underlying activity which is described in the EIR. [¶] ... **An EIR on a construction project will necessarily be more detailed in the specific effects of the project than will be an EIR on the adoption of a local general plan** ... ." ([14 Cal.Code Regs.]§ 15146.) Recently, it was reaffirmed, '**the sufficiency of an EIR is to be reviewed in the light of what is reasonably feasible.**' [Citation.] (*San Diego Citizenry Group v. County of San Diego* (2013) 219 Cal.App.4th 1, 21, quoting [14 Cal.Code Regs.]§ 15151.)"

> "These legal standards, which apply to all EIRs, set the appropriate focus for our review here. **Courts have looked not for perfection but for adequacy, completeness, and a good faith effort at full disclosure**. (Guidelines, § 15151; [citations].) Accordingly, **the question is** not whether a program EIR should have been prepared for this Project, but instead, **whether the EIR addressed the environmental impacts of this Project to a "degree of specificity" consistent with the underlying activity being approved through the EIR**. (Guidelines, § 15146; see § 15168, subd. (c)(5).) Additionally, in reviewing [petitioner's] challenge to this EIR, it is unconstructive to ask whether the EIR provided "project-level" as opposed to "program-level" detail and analysis. Instead, we focus on **whether the EIR provided "decision makers with sufficient analysis to intelligently consider the environmental consequences of [the] project**." (*Bay-Delta, supra*, 43 Cal.4th at p. 1175.) **If these questions are answered affirmatively, the EIR is legally sufficient... ." [Emphasis added.]**

In this case, Los Angeles is considering alternative runway geometrics and associated ground transportation access options **for the LAX Specific Plan,** a land use planning document. No construction project is being reviewed by this court on this DEIR. Under this project and on this record, it was eminently reasonable for Los Angeles to determine *not* to copy 60,000-80,000 printed pages of air quality data modeling spreadsheets as an appendix to each DEIR distribution copy, in favor of 434 pages of technical modeling output summaries; subject to open access to availability of the voluminous underlying electronic data to any person or entity wishing to consider such further level of technical detail.

In the SPAS DEIR, with respect to each type of air emissions *source* category, the nine SPAS alternatives are individually analyzed and compared across the various alternative options, thereby providing "adequacy, completeness and a good-faith effort at full disclosure." [See, *e.g.*, AR 4559-4612.] The 2012 SPAS DEIR air quality analysis provided BOAC and Los Angeles' City Council "with sufficient analysis to intelligently consider the environmental consequences" of the prospective air quality impact of each of the nine proposed alternatives. [*Id.*] The 2012 SPAS DEIR air quality analysis is therefore "legally sufficient" under CEQA.

Despite the informational sufficiency of the air quality analysis of the SPAS DEIR to satisfy CEQA, Inglewood/Culver City raised a series of air quality analysis objections at the administrative level; all responded to by Los Angeles in the FEIR. [AR 12570-12580.] With respect to Inglewood/Culver City's non-specific complaint as to the alleged omission of "data", Inglewood/Culver City was advised in the FEIR response to comments that the "emission

calculation spreadsheets, as well as EDMS and AERMOD[75] model input and output files" had been earlier provided to SCAQMD [AR 12570]; and which responses in turn expressly advised Inglewood/Culver City that those underlying 60,000-80,000 pages of data input/output spreadsheets were also available to Inglewood/Culver City and any other public member upon request. [AR 12573, 12576; see also AR 12509.]

From the issuance of the SPAS FEIR on January 29, 2013 until City Council certification on April 30, 2013, Inglewood/Culver City had over three months in which to examine the identified technical electronic input/output spreadsheets supporting the DEIR appendix summaries and render objection at any one of the various ensuing public hearings before BOAC, the Planning Commission, TCT/PLUM and the City Council. In their lengthy objections to the FEIR on March 8, 2013, Inglewood/Culver City address only the capability of the EDMS model to calculate NO_X emissions from aircraft "reverse thrust" operations [AR 20540-20546]; the capability of the EDMS software to properly model the specific jet engines being utilized at LAX [AR 20546-20547]; and an alleged lack of underlying documentation for Ground Support Equipment ["GSE"] and Auxiliary Power Unit ["APU"] emissions estimates. [AR 20547.]

Instead, for whatever reason, Inglewood/Culver City elected to wait until long after this lawsuit was filed in which to collect and critique the tens of thousands of electronic pages of EDMS modeling input/output data, which new-found criticisms form the core of their air quality arguments on *mandamus* review. [Inglewood/Culver City opening brief, at 27-32.] As required by Public Resources Code §21177(a), "[a]n action or proceeding shall not be brought pursuant to [CEQA] unless the alleged grounds for noncompliance with this division were presented to the public agency orally or in writing by any person during the public comment period provided by this division or **prior to the close of the public hearing on the project before the issuance of the notice of determination**."[Emphasis added.]

Exhaustion of administrative remedies is "a jurisdictional prerequisite to resort to the courts". *Tomlinson v. County of Alameda* (2012) 54 Cal.4th 281, 291. As noted in *Tomlinson, supra*, at 291, quoting *Sierra Club v. San Joaquin Local Agency Formation Com.* (1999) 21 Cal.4th 489, 501:

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[75] "AERMOD" is an air plume dispersion model utilized by the United States Environmental Protection Agency which is incorporated into the EDMS modeling algorithm. [AR 4545.]

> "Even where the administrative remedy may not resolve all issues or provide the precise relief requested by a plaintiff, **the exhaustion doctrine** is still viewed with favor 'because it **facilitates the development of a complete record that draws on administrative expertise** and promotes judicial efficiency.' [Citation.] It can serve as a preliminary administrative sifting process [citation], unearthing the relevant evidence and providing a record which the court may review." [Emphasis added.]

Here, where Inglewood/Culver City now challenge alleged inconsistencies between the 60,000-80,000 pages of electronic data sheets and the DEIR technical appendix summaries with respect to aircraft taxi times; alleged electronic inaccessibility of 19 "linked" data files; and alleged 2%-4% discrepancies in "parking volume" calculations [Inglewood/Culver City opening brief, at 27-32], such inquiries should have first been addressed at the administrative level before debuting them in a court of law. Inglewood/Culver City are accordingly barred from raising these new and additional claims.

The one and only identifiable air quality argument which Inglewood/Culver City do perpetuate from the administrative level into adjudicatory *mandamus* review questions the specific type of aircraft used to complete the EDMS modeling study, and the specific aircraft engine assigned to each aircraft type for purposes of emissions modeling calculations. [AR 20546-20547; Inglewood/Culver City opening brief, at 32-33.] As Los Angeles advised Inglewood/Culver City in the response to comments:

> "The [data involving aircraft fleet selection and engine emissions estimates was] not omitted from the analysis. **The engine types used in the air quality impact analysis are directly tied to the aircraft fleet mixes. The detailed aircraft fleet mixes used in the air quality analysis** are the same as those used in the noise analysis, and **are presented in Table 3 (2009 Baseline fleet mix) and Table 8 (2025 fleet mix) in Appendix J1-1 of the SPAS Draft EIR**. Each fleet mix is also summarized in Table 8 (2009) and Table 12 (2025) in Appendix F-1 of the Preliminary LAX SPAS Report. **The EDMS model used to calculate aircraft emissions provides default engine selections for most of the aircraft types, and these defaults were used in the air quality impact analysis.**" [Emphasis added.] [AR 12575-12576, referencing AR 8273-8275, 8287-8289 [2009 and anticipated 2025 fleet mixes].]

Despite the recitation of the fleet mix utilized for the EDMS modeling study and Los Angeles' reliance upon EDMS model defaults for associated engine types, Inglewood/Culver City pursued this issue further by challenging Los Angeles' use of EDMS model defaults, questioning the continued legitimacy of the FAA-required EDMS model itself, and demanding

"public scrutiny of the EDMS algorithms" associated with the EDMS air quality model. [AR 20546-20547.]

"**A lead agency enjoys substantial discretion in its choice of methodology**." *Center for Biological Diversity v. Department of Fish & Wildlife* ["*Center for Biological Diversity*"](2015) 62 Cal. 4th 204, 228. CEQA lead agency "substantial" discretion in choice of methodology appears even broader here, where under **the express terms of the Stipulated Settlement,** Los Angeles was contractually afforded unqualified "**discretion to determine an appropriate methodology**" for the SPAS Alternatives Study. [AR 388.]

Once an analytical methodology is selected, the general rule as to the required informational breadth of an EIR is as follows:

> **"[A]n EIR need not include all information available on a subject. An EIR should be "analytic rather than encyclopedic" and should emphasize portions "useful to decision-makers and the public."** ([14 Cal.Code Regs.] 15006, subds.(o) & (s).) One goal in reducing delay is 'reducing the length of' EIR's. ([14 Cal.Code Regs.] §15006, subd. (n).) An EIR is an 'informational' document designed to convey detailed information to public agencies 'and the public in general.' (Pub. Res. Code, § 21061.)"

> **"CEQA simply requires that the public and public agencies be presented with adequate information to ensure that 'decisions be informed, and therefore balanced.'** [Citation.] The purpose of CEQA "is not to generate paper." [Emphasis added.] *Al Larson, supra*, 18 Cal.App.4th at 748.

A DEIR providing information on possible municipal specific plan amendments is not a proper forum for contesting the algorithmic legitimacy of an industry-required air quality modeling protocol. EDMS is "the FAA-required model for airport air quality analysis of aviation [emissions] sources". [AR 4545.] Los Angeles must operate LAX within the standards and regulations of the FAA. [AR 4936.] At no point in time did Inglewood/Culver City or any other person or agency propose that Los Angeles abandon the mandatory EDMS methodology in favor of some new air contaminant dispersion model that meets the Inglewood/Culver City criteria, nor would such a demand have been appropriate from Inglewood/Culver City in light of both CEQA case law and the contractual covenant to delegate all CEQA methodology decisions to Los Angeles.[76]

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[76] "**CEQA does not require a lead agency to conduct every test or perform all research, study, and experimentation recommended or demanded by commentors.** When responding to comments, lead

Here, the results of the industry-mandated air EDMS emissions modeling study were quantified and analyzed in detail on an alternative-by-alternative basis in the SPAS DEIR. [AR 4534-4612.] Both the public and the public agency were presented with "adequate" air quality information upon which to fairly consider among the various alternatives to the 2004 "Yellow Light" components of Alternative D. Inglewood/Culver City's purported discontent with EDMS "aircraft assignment" modeling assumptions underlying the statistical data, in contravention of the methodology allocation terms of the Stipulated Settlement, should be taken up with the FAA, not with Los Angeles' City Council in the performance of the Stipulated Settlement.

B. Los Angeles Was Not Required to Wait until After Release of the 2013 Air Quality Source Apportionment Study

As part of its separate challenge to the air quality chapter of the 2012 SPAS DEIR, petitioner ARSAC contends that Los Angeles should have waited until the long-pending air-quality Source Apportionment Study ["AQSAS"] could be completed. [ARSAC opening brief, at 24-29.] While the 2006 Stipulated Settlement compelled Los Angeles to fund the AQSAS and to proceed with notice to and in collaboration with petitioners [AR 410-411], there is no contractual correlation between the completion of the SPAS Alternatives Study and the completion of the AQSAS.

Under the February 16, 2006 Stipulated Settlement, the initial phase SPAS Alternative Study was to be completed within six months; while the initial phase of the AQSAS could be delayed more than ten months [*cf.* AR 387, 410]. Further, only the SPAS Alternatives Study provisions included a "good faith" *completion* date [*id.*]; suggesting that it was petitioners' collective intention that the SPAS Alternatives Study and associated CEQA review would be accomplished in advance of the AQSAS. This court could find no evidence whatsoever in the record that the parties intended the completion of the SPAS Alternatives Study and the AQSAS to be contemporaneous, or, as now suggested by ARSAC, that completion of the AQSAS should have preceded consideration of the SPAS DEIR.

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agencies need only respond to significant environmental issues and do not need to provide all information requested by reviewers, as long as a good faith effort at full disclosure is made in the EIR." [Emphasis added.] 14 Cal.Code Regs. §15204(a).

Second, ARSAC presents no evidence that uncompleted AQSAS study results should more properly serve as the appropriate "baseline" for the 2012 SPAS DEIR air-quality methodology. The U.S. EPA correspondence principally relied upon by ARSAC for this proposition [ARSAC opening brief, at 26-27] was written on September 24, **2001** in response to the 2001 draft EIR/EIS. [AR 359541-35955.] No subsequent U.S. EPA comment was submitted to either the 2004 LAX Master Plan EIR/LAX Specific Plan EIR or the 2012 SPAS Amendment Study EIR.

As part of the SCAQMD comment letter on the 2012 SPAS DEIR, SCAQMD raised the pending AQSAS study in the context of its discussion of black carbon and ultrafine particles. [AR 14657.] The air quality agency, noting that the AQSAS study proposed to examine "a diverse suite of pollutants" with a prospective study completion date of "Spring 2013", recommended "a robust discussion" of the uncompleted AQSAS study in the SPAS environmental document.[*Id.*][77] In the formal response to SCAQMD's comment, Los Angeles advised:

> "[Los Angeles] has committed to conduct a study to determine and quantify LAX's contribution to air pollutant impacts on neighborhoods surrounding the airport by conducting the LAX Air Quality and Source Apportionment Study (AQSAS), pursuant to the LAX Master Plan Community Benefits Agreement, Section VII and Section E of Exhibit A of the LAX Master Plan Stipulated Settlement. **The study is not tied to any specific LAX project**, since the timing of the study could be affected by events outside of LAWA's control (such as the events of 9/11 which delayed the original study implementation). **The LAX AQSAS uses methodologies** and techniques that are research oriented, state-of-the-art, and **sometimes different than USEPA-approved methods for analyzing pollutant concentrations for comparison to ambient air quality standards**."
>
> "The LAX AQSAS is overseen by the study's Technical Working Group. The Technical Working Group provides oversight of the technical quality of the AQSAS and is comprised of air quality scientists, researchers, and engineers from the U.S. Environmental Protection Agency (U.S. EPA), California Air Resources Board (CARB), South Coast Air Quality Management District (SCAQMD), State of California Office of Environmental Health Hazard Assessment (OEHHA), Federal Aviation Administration (FAA), and community organizations."

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[77] SCAQMD's stated belief that the AQSAS study was "conducted to help the public and decision makers *for this project* evaluate potential air-quality impacts..." [AR 14657; italics added] appears to be a misreading of the 2006 Stipulated Settlement and the scheduled timing of the two studies, by a non-signatory. [*C.f.* AR 12507.]

"The LAX AQSAS is currently in its third and final phase, including monitoring at numerous locations in the communities around the airport, conducting laboratory analyses, applying receptor modeling techniques to the monitored data, interpreting the results, and preparing the final report. **LAWA has committed to publish the study final report in the spring of 2013. The project status can be viewed at: http://www.lawa.org/welcome_LAX.aspx?id=1066**" [AR 12507.] [Emphasis added.]

As long as the EIR satisfies the good faith informational sufficiency requirements of CEQA, the environmental document is sufficient as a matter of law. As observed in *North Coast Rivers Alliance v. Marin Municipal Water Dist. Bd. of Directors* ["*North Coast Rivers Alliance*"] (2013) 216 Cal.App.4th 614, 639-640:

" '**An EIR need not include all information available on a subject... all that is required is sufficient information and analysis to enable the public to discern the analytical route the agency traveled from evidence to action.**' [Citation.] '**A project opponent or reviewing court can always imagine some additional study or analysis that might provide helpful information. It is not for them to design the EIR. That further study ... might be helpful does not make it necessary.**' [Citing *Laurel Heights I, supra*, 47 Cal.3d at p. 415.] 'Although others might well assess the significance of a risk ... differently, **it is error for the court to substitute its judgment for that of the Agency.**' [Citation.]" [Emphasis added; brackets an original deleted.]

Likewise, in this case, the fact that the incomplete LAX AQSAS may have possibly been helpful once completed, does not render it "necessary". (*North Coast Rivers Alliance, supra,* 216 Cal.App.4th at 639-640.) Los Angeles had sufficient air quality information available to it at the time of certification to enable the public "to discern the analytical route the agency traveled from evidence to action". [*Id*; AR 4534-4612.]

VI

THE EIR SUFFICIENTLY ANALYZES OFF-AIRPORT VEHICULAR TRAFFIC IMPACTS

A. Caltrans' Untimely Post-Certification Request for More Traffic Modeling Was Properly Rejected

Inglewood/Culver City's final set of arguments challenges the sufficiency of EIR analysis of off-airport traffic impacts. [Inglewood/Culver City 34-38.] As with the petitioning agencies' earlier arguments, the contentions are replete with inadmissible, post-certification references and challenges to the lead agency's choice of analytical methodology.

State law requires that a "congestion management program" ["CMP"] be "developed, adopted and updated biennially... for every county that includes an urbanized area". [Govt.C.§65089(a).] A county's CMP must include, *inter alia*, "**a uniform data base on traffic impacts for use in a countywide transportation computer model",** and each county "shall approve **transportation computer models of specific areas within the county that will be used by local jurisdictions to determine the quantitative impacts of development on the circulation system that are based on the countywide model and standardized modeling assumptions and conventions**". [Govt.C.§65089(c); see generally discussion in *Rialto Citizens for Responsible Growth v. City of Rialto* (2012) 208 Cal. App. 4th 899, 929-931.] The data base used in each county's CMP and subordinate local models are required to be consistent with the databases used by the regional planning agency. [*Id.*]

Under the 2006 Stipulated Settlement, the parameters of the traffic impacts portion of the SPAS Alternative Study were agreed to in advance by the parties to this litigation:

> "The environmental review of potential traffic impacts for the Alternative Projects will be conducted in consultation with all affected local jurisdictions and the Los Angeles Department of Transportation ("LADOT"). After [Los Angeles] has determined the appropriate scope of the traffic study in consultation with all affected local jurisdictions and LADOT, [Los Angeles] will provide Petitioners with a list of the intersections/ roadways that LAWA plans to analyze for the LAX Specific Plan Amendment Study. **The Parties agree that Petitioners may elect to add a maximum of 15 intersections to the traffic study**. For any new significant traffic impact that is identified as a result of the traffic study, [Los Angeles] will propose feasible mitigation measures, if any, to mitigate the potentially significant impact. If, as the result of the LAX Specific Plan Amendment Study, an LAX Specific Plan Amendment is approved by the Los Angeles City Council, [Los Angeles] shall fund or diligently seek funding for the applicable mitigation measures and will implement them as quickly as feasible pursuant to a phasing plan. Where [Los Angeles] is not the implementing agency, [Los Angeles] will contribute its fair share for each mitigation measure to the implementing agency." [AR 388.]

The promised inter-agency consultation was extensive. [AR 139373-139449.] Ultimately, Los Angeles provided petitioners with a list of 126 traffic intersections to be studied, plus 20 freeway ramps. [AR 139373-139377.] Pursuant to the parties' contract, Culver City requested eight and Inglewood requested three additional intersections to be studied. [AR 139340.] In addition, Los Angeles studied LAX alternative traffic impacts upon three freeways and 31 critical roadway segments. [AR 5637-5642.]

Los Angeles' "TDF" traffic forecast model was developed from the Southern California Association of Governments ["SCAG"] model; further calibrated and validated for conditions in Los Angeles. [AR 5655.] Using CPM guidance, Los Angeles' SPAS model used the **Critical Movement Analysis** ["CMA"] **methodology** required by Los Angeles' transportation department to assess levels of service at traffic intersections located within the city; while it used the **Intersection Capacity Utilization** ["ICU"] **methodology** required by all neighboring cities and the County of Los Angeles for the 114 study intersections located outside city jurisdiction. [AR 5648.][78] Los Angeles used the **Highway Capacity Manual** ["HCM"] "unsignalized" **methodology** to measure performance of those intersections controlled by stop signs on the minor approaches. [AR 5649.] Los Angeles also used the **Highway Capacity Manual** to measure impacts on freeway ramps [AR 5651-5652, 12048-12059] and at freeway ramp intersections [AR 5651-5652, 12036-12047]. Los Angeles performed validation tests to verify the accuracy of its off-airport traffic model. [AR 5658-5660.]

Caltrans, in response to the 2010 SPAS RNOP, asked that the SPAS DEIR traffic study include segments of Sepulveda Blvd., the I-405 freeway, and the I-105 freeway. [AR 6466.] Caltrans "recommended" use of its Highway Capacity Manual ["HCM"] model to consider project alternative impacts on "all State highway segments including mainline freeways, freeway merging and weaving analysis, freeway on/off-ramps, and freeway ramp intersections". [*Id.*] To evaluate future traffic demands, Caltrans advised use of a "travel demand model… consistent with SCAG's travel demand model and other sub-regional travel demand models". [*Id.*]

There has been conflict from time to time between use of statutorily mandated and routinely updated county CMP traffic methodologies and use of the more generalized HCM traffic model. In *Endangered Habitats League, Inc. v. County of Orange* ["*Endangered Habitats League* "] (2005)131 Cal. App. 4th 777, a development project was approved in the Santa Ana Mountains, near Santiago Canyon Rd. [*Id.*, at 781.] Under the HCM model, at that time the

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[78] Both Los Angeles' CMA methodology and the neighboring jurisdictions' ICU methodology use a volume-to-capacity (V/C) ratio to measure respective levels of service. [AR 5648-5649.] In addition measuring impacts upon neighboring jurisdictions using the relevant agency's traffic model, Los Angeles also measured significance based upon each jurisdiction's respective "thresholds" of significance. [AR 5678-5681.]

required model under Orange County's General Plan for Santiago Canyon Rd., traffic was projected to fall to an unacceptable service level "E" by the year 2020. (*Id.*, at 783.) Using instead a "V/C method" (for volume/capacity ratio) [79] under the county CMP, Santiago Canyon Rd. showed an acceptable service level "B" in the year 2020. (*Id.*) In *Endangered Habitats League*, the board of supervisors' adoption of the V/C model "as more representative of actual conditions" was set aside because it directly violated "the specific and mandatory policy" of the then-existing Orange County General Plan. (131 Cal.App. 4th at 789.)

In *Sierra Club v. City of Orange* ["*Sierra Club*"] (2008) 163 Cal. App. 4th 523, Orange *city* proposed to annex from Orange County substantial acreage near the very same Santiago Canyon Rd. for development. (*Id.*, at 528 and 544.) The *city's* general plan requires use of "the laxer" V/C (volume/capacity) methodology to measure surface traffic impacts. (*Id*, at 544.) At the time of the application, the land had yet to be annexed and the *county's* General Plan requiring HCM analysis of Santiago Canyon Rd. had yet to be rescinded. (*Id.*) The Court of Appeal in *Sierra Club* took no issue with the *city's* rejection of the HCM model, as long as the EIR was sufficient as an informational document:

> "It is not our function to pass on the correctness of the EIR's environmental conclusions, but only upon its sufficiency as an informative document. [Citation]. **The mere fact plaintiff disagrees with the methodology employed by defendant to measure the project's potential traffic impacts** on Santiago Canyon Road **does not require invalidation of the SEIR/EIR, if it provides accurate information**." [163 Cal. App. 4th 544-545.] [Emphasis added.]

Though Inglewood/Culver City had a number of objections to DEIR findings relating to the significance of impacts at specific municipal intersections [AR 12589-12595, 14682-14684], and to a lesser degree after the FEIR response to those comments [AR 20548], at no point did Inglewood/Culver City ever object at the administrative level with respect to Los Angeles' selection of surface traffic modeling methodology or freeway-related significance findings. Moreover, "[p]ointing to evidence of a disagreement with other agencies is not enough to carry

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[79] "The 'volume/capacity ratio' measures the ability of a roadway to handle the volume of traffic. If the amount of traffic on a roadway is equal to its capacity, the ratio will be 1.00. That figure is reduced as the ability of a roadway to handle the volume of traffic passing on it is reduced." *Napa Citizens for Honest Government v. Napa County Bd. of Supervisors* (2001) 91 Cal. App. 4th 342, 362 [fn 3].

the burden of showing a lack of substantial evidence to support the City's finding." *California Native Plant Society v. City of Rancho Cordova* (2009) 172 Cal. App. 4th 603, 626.

Caltrans was hand-delivered a full copy of the SPAS DEIR on **July 29, 2012.** [AR 19337-19338, 20669.][80] Los Angeles gave notice of allowance of public comment through close of business on **October 10, 2012**, thereby allowing both public and public agency input beyond the normal statutory period. [AR 4229] [Pub.Res.C.§21091(a); 14 Cal.Code Regs.§§15105(a), 15205.] The FEIR issued on **January 25, 2013.** BOAC certified the final EIR on **February 5, 2013.** Caltrans did not comment.

Then, on March 15, 2013, nearly five months *after* the close of public comments on the draft EIR; nearly two months after issuance of the *final* EIR and response to public comments; and **nearly six weeks after the *final* EIR was certified by BOAC, Caltrans responded for the first time to the *draft* EIR,** "aware the official comment period of the environmental review has expired". [AR DA37035-37036.] The two-page Caltrans letter, of which only one of the "bullet points" is germane to this review, disputes the CMP methodology "for freeway facilities" in favor of HCM methodologies. [AR DA37036.] The letter suggests that the Caltrans author did not read the entirety of the SPAS DEIR, since HCM methodologies were in fact used by Los Angeles to gauge impacts as to both freeway ramps [AR 5651-5652, 12048-12059] and freeway ramp intersections [AR 5651-5652, 12036-12047]. The letter also suggests that the Caltrans author was unfamiliar with the I-405, as the letter requested, *inter alia*, a "vehicle queue" analysis for I-405 off-ramp at Arbor Vitae St. [AR DA37036.][81]

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[80] In addition to delivering a full copy of the DEIR to the State Clearinghouse on July 27, 2012 for direct distribution to Caltrans as set forth in the Notice of Completion and as required by law [14 Cal.Code Regs.§15205(e); AR 19337-19338], on July 29, 2012, Los Angeles also hand-delivered a full electronic copy of the DEIR directly to Caltrans. [AR 20669.]

[81] There is no I-405 off-ramp at Arbor Vitae St.
http://www.dot.ca.gov/hq/traffops/engineering/calnexus/pdf/fourofivenorth.pdf
http://www.dot.ca.gov/hq/traffops/engineering/calnexus/pdf/fourofivesouth.pdf

The post-certification Caltrans letter also claims that Los Angeles' CMP methodology "determined that none of the 9 alternatives the Specific Plan would have a significant impact on nearby freeway[] I-405..." [AR DA37036], yet in fact the DEIR found three I-405 freeway segments significantly impacted under each of the DEIR alternatives. [AR 5710-5713.]

Presentation of "significant new information" in an EIR after close of public comment can under certain very specific circumstances result in recirculation, but only if that new added information "deprives the public of a meaningful opportunity to comment upon a *substantial* adverse environmental effect of the project". [*Laurel Heights Improvement Assn. v. Regents of University of California* ["*Laurel Heights II*"] (1993) 6 Cal. 4th 1112 , 1129-1130.] Moreover, the recirculation "exception' articulated in *Laurel Heights II* only applies only significant new information added ***prior to FEIR certification.*** [*Laurel Heights II, supra*, 6 Cal.4th at 1124 and 1132; see also *South County Citizens*, supra.]

Here, Caltrans' request for further freeway traffic segment studies using its HCM alternate methodology, and its request for off-ramp "queue" analysis, is not "new information" or even "information", nor is it part of the FEIR. It is simply a post-certification request for more studies and more information, a theoretically endless endeavor which CEQA does not countenance. [14 Cal.Code Regs. §15204(a).] Here, Caltrans' request for more information came nearly six weeks **after FEIR certification,** subject to administrative appeal of that certification.[82]

Inglewood/Culver City, abandoning the specific municipal traffic intersection concerns registered at the administrative level, circle their "traffic impact" wagons around the post-certification Caltrans DEIR letter as grounds to set aside the SPAS DEIR. [Inglewood/Culver City opening brief, 34-37.] In support of the alternate freeway traffic segment methodology and further freeway study requested in the post-certification Caltrans letter, a methodology selection argument which Inglewood/Culver City contracted away in 2006 [AR 388], Inglewood/Culver City rely principally upon an inadmissible, non-final Los Angeles trial court "tentative ruling" in

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[82] Based upon the *post-certification* Caltrans request for the additional freeway studies, Inglewood/Culver City leapfrog to the argument that greater impacts of the proposed SPAS amendments over baseline freeway conditions would necessarily compromise La Cienega Blvd. and spill excess traffic onto Sepulveda Blvd. This argument was neither raised in response to the DEIR at the administrative level by Inglewood/Culver City (*Tomlinson v. County of Alameda , supra*, 54 Cal.4th at 291) nor did they properly proffer all of the evidence favorable to Los Angeles, and further establish why that evidence is lacking. (*Citizens for a Sustainable Treasure Island*, supra, 227 Cal.App. 4th at 1064, citing *South County Citizens, supra*, 221 Cal.App.4th at 331.) Here, the FEIR confirms that the existing Los Angeles' traffic model "includes iterative traffic assignment until traffic is optimally distributed over the street network", which "dynamic assignment process accounts for traffic diversion from congested routes to other available routes". [AR 12649.]

another case, and once again, inadmissible 2015 "Landside Access Modernization Program" project documents. [Inglewood/Culver City opening brief, at 35-36.] These post-record considerations once again have no place in administrative *mandamus* review. *Friends of Kings River v. County of Fresno*, *supra*, 232 Cal.App. 4th at 119; *Silverado Modjeska Recreation & Park Dist. v County of Orange*, *supra*, 197 Cal.App.4t at 307.

Beyond the post-certification Caltrans letter challenging methodology, Inglewood/Culver City argue that the EIR should be set aside because "[n]o studies were conducted to determine if the SPAS Project will increase travel times for buses and adversely impact operations" on three Culver City bus lines. [Inglewood/Culver City opening brief, at 37.] Again, these arguments were *never* raised at the administrative level nor is there any duty under CEQA to add additional post-certification study after study. [14 Cal.Code Regs. §15204(a).] Accordingly, they are barred.[83]

B. The Level of Construction Detail in the SPAS DEIR to Accommodate Projected North Runway Relocation Is Appropriate to a Program-Level EIR

Because the 2012 SPAS DEIR was intended as a programmatic review of a possible LAX Specific Plan amendment to the previously approved "Yellow Light" components of Alternative D, rather than a construction-level project EIR, the SPAS DEIR clarified:

> "**The nine alternatives currently being considered for the SPAS project are only at a conceptual level of planning. No construction plans, programs or schedules have been formulated for any of the alternatives.**" [AR 4359.]

As articulated by the California Supreme Court in *In re Bay-Delta*, *supra*, 43 Cal.4th 1143, 1170:

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[83] Though it is neither Los Angeles' obligation nor the court's burden to search through an administrative record of more than a quarter of a million pages to counter petitioners' unsupported post-certification "bus line" impact claims [*South County Citizens*, *supra*, 221 Cal.App. 4th at 332 -- "**We are not required to cull through the more than 11,000-page administrative record to see if there is support for Smart Growth's position**"], that there is substantial evidence in the record that transit system impacts of the proposed SPAS alternatives were adequately considered and included within the CMP model, including incorporation of eleven local and express bus service routes/lines located in the LAX area. [See, *e.g.*, AR 5662, 5678.]

Under substantial evidence review, "the reviewing court **must** resolve reasonable doubts in favor of the administrative finding and decision." (*Laurel Heights I*, *supra*, 47 Cal.3d 376, 393. [Emphasis added.]

> "In addressing the appropriate amount of detail required at different stages in the tiering process, the CEQA Guidelines state that **'[w]here a lead agency is using the tiering process in connection with an EIR for a large-scale planning approval, such as a general plan or component thereof ... , the development of detailed, site-specific information may not be feasible but can be deferred, in many instances, until such time as the lead agency prepares a future environmental document in connection with a project of a more limited geographic scale, as long as deferral does not prevent adequate identification of significant effects of the planning approval at hand.**' (Cal. Code Regs., tit. 14, § 15152, subd. (c).) This court has explained that '[t]iering is properly used to defer analysis of environmental impacts and mitigation measures to later phases when the impacts or mitigation measures are not determined by the first-tier approval decision but are specific to the later phases.' [Citation.]"

Inglewood/Culver City, as their final argument, viewing Los Angeles' deferral of construction-level details as a vulnerability rather than an appropriate EIR program level protocol, argue that SPAS Alternatives Study DEIR fails to adequately discuss "the potential for closure of Lincoln Boulevard during the tunneling/construction phase". [Inglewood/Culver City opening brief, at 37-38.]

The 2012 SPAS DEIR *does* identify and advise of significant construction impacts from a planning level perspective that would result in "temporary significant and unavoidable impacts on the streets surrounding LAX". [AR 5374-5375] In considering the DEIR as an informational document, both the public and the decision maker were advised that such construction impacts could result in "substantial addition of project-generated traffic, **long-term lane closures**, loss of vehicular or pedestrian access to adjacent land uses, or long-term loss of bus stops or re-routing of bus lines". [AR 5681.] [Emphasis added.] This identification of deferred yet potentially significant construction traffic-related impacts of the SPAS alternatives expressly satisfies the informational requirements of 14 Cal.Code Regs.§15152(c)(1).

As future Lincoln Blvd. tunneling/construction closure concerns nevertheless became a public cause célèbre during the post-DEIR SPAS environmental review process, Los Angeles' FEIR response to comments directed its attention first and foremost to the proposed Lincoln Blvd. realignment. [AR 12450-12462.] As set forth in Los Angeles' FEIR response, the entire projected roadway relocation is located **on LAX property,** and **no property acquisition will be necessary** to construct roadway improvements. [AR 12450.] The relocation/realignment area "is **almost entirely vacant**". [*Id.*] As noted in Los Angeles' formal responses to the DEIR:

> "The level of detail that was developed as part of the SPAS process was appropriate and sufficient, for this level of planning and evaluation, to determine the **general location** of the realigned roadway[84], its **approximate depth**[85], the **approximate length** of the roadway that would need to be depressed[86], and other characteristics. This level of specificity was sufficient to determine the distance of the realigned roadway to off-airport land uses, and impacts of the realignment at a program-level of detail, including impacts to aesthetics and visual resources, biological resources, air quality, and other environmental topics." [AR 12543.]

While this level of detail is sufficient for a programmatic EIR to accomplish an interim-level specific plan amendment [14 Cal.Code Regs.§15252(c)], the CEQA-authorized deferral of construction-level specifics to a later project EIR apparently did not sit well with ARSAC and other segments of the Westside motoring public. [See, *e.g.*, AR 20519-20520]. Accordingly, while Lincoln Blvd. realignment objections continue to be raised through the various levels of administrative appeal, Los Angeles referred the issue to its surface traffic engineering consultant. According to the engineering consultant, in pertinent part:

> "The boundaries of the project site are in **an undeveloped area** that is owned and controlled by [Los Angeles]. The majority of the realigned segment of Lincoln Boulevard would be located several hundred feet away from the existing alignment. **There are no land uses on either side of the planned alignment**, with the exception of a radar facility that would be relocated as part of the project, and there are relatively few roadways that connect with the affected segment of Lincoln Boulevard and those that do connect have, for the most part, light traffic volumes."
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> "There are many possible construction phasing scenarios available for implementation of the Lincoln Boulevard realignment. **One viable construction scenario would** follow the standard roadway engineering practice to construct the new segment of a roadway while the existing roadway remains in operation, and then to tie the new roadway into the

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[84] Under the SPAS DEIR, the projected Alternative 1 Lincoln Blvd. relocation is specifically diagrammed on a map and described as "between Sepulveda Blvd. and Westchester Pkwy" [AR 194, 196]. In response to public comment, the FEIR reduces the DEIR map detail to a verbal description -- that the projected relocation "starts northwest of the intersection of Lincoln Blvd. and Sepulveda Blvd. and extends to just past the Westchester Parkway underpass... [a]t its greatest distance, the roadway would be moved approximately 500 feet to the north [AR 12060].

[85] In response to comments about the location of conflicting underground utilities, the FEIR confirms that Lincoln Blvd. tunnel depth "would not exceed approximately 30 feet". [AR 12450.]

[86] Under the SPAS DEIR, the proposed Alternative 1 Lincoln Blvd. tunnel is described as "approximately 540 linear feet". [AR 196.]

existing lanes (i.e., **construct the new segment separate from the existing road and then connect the end points of the new roadway to existing roadway**)."

"Under this scenario, there could be minor interruptions to traffic on the existing roadway during construction of the main portion of the realigned roadway for transporting equipment and materials to the work site; however, **no closures are anticipated during this phase.** After the new roadway segment has been constructed, it would be connected to the existing portions of the roadway. As is often the case for such road projects, this **tie-in phase would involve temporary closure of some of the travel lanes**, but would not require the complete closure of the existing roadway. Furthermore, in the case of the SPAS project, Mitigation Measure ST-19 would require any such lane closures to occur **during short periods at night** and roadways would remain open until they are no longer needed for regular traffic, unless a detour route is available." [AR 143035-143036.] [Emphasis added.]"

Erroneously re-characterizing the engineering consultant's letter "an attempt to correct the EIR's omission of analysis of impacts caused by the relocation of Pacific Coast Highway", ARSAC expands upon Inglewood/Culver City "Lincoln Blvd. 'Carmageddon 3'" concerns by noting, *inter alia*, that the referenced engineering report was not generated until after BOAC certified the DEIR. [ARSAC opening brief, at 30-34.] However, since the engineering opinion suggests that environmentally significant construction traffic impacts otherwise anticipated from the SPAS amendments would *not* likely be impacts resulting from Lincoln Blvd. tunneling/ relocation construction [AR 5681], there is nothing "corrective" about the engineering letter that undermines the previous sufficiency of the programmatic level SPAS DEIR.

Assuming Los Angeles now or in the future moves forward to implement the north runway portion of the now-approved LAX Specific Plan Amendment, the specific construction details of Alternative 1 Lincoln Blvd. tunneling/relocation, including proposed days and times of lane closures, if any, can be considered in detail at the time of environmental review for project level approvals. As observed in the FEIR response to comments:

"For [future] project-specific Lincoln Blvd. realignment CEQA review, **construction details would be developed during the detailed engineering phase**, and included in the document's project description. Detailed project-specific impact analysis would then be conducted, including impacts during construction on adjacent residences and businesses. **Construction details would include construction plans and phasing; specifications for the portion of the roadway that would be covered, including vehicle restrictions,** hazardous materials restrictions, ventilation, emergency exits, emergency response, **traffic controls,** security issues, and maintenance; **an evaluation of utilities beneath the site and relocation plans for these utilities; the nature and duration of roadway closures and related detours**... [AR 12452.] [Emphasis added.]

ARSAC, likewise ignoring the latitude afforded to proper tiering of environmental review, uses Los Angeles' CEQA-authorized deferral of construction-level detail in its programmatic EIR to argue lack of traffic mitigation specific to Lincoln Blvd. [ARSAC opening brief, at 34.] While ARSAC fails to suggest what that additional Lincoln Blvd.-only mitigation might be, the 2012 SPAS DEIR adopted a variety of commitments and mitigation measures from the LAX Master Plan, including the required completion of a construction management plan, restricted truck delivery and employee shift hours, designated truck routes, multi-project construction coordination, and prohibitions on closing existing roadways "[o]ther than for short time periods during nighttime construction". [AR 5682-5683.]

In a similar posture are ARSAC's arguments that the programmatic 2012 SPAS DEIR fails to adequately specify project level details on construction fill of the obsolete "Manchester Tunnel" [ARSAC opening brief, at 34-35], and construction/relocation detail associated with possible utility line displacement due to the proposed 540' Lincoln Blvd. tunnel [ARSAC opening brief, at 35-37].

The approximate 720-foot "Manchester Tunnel" was built many years ago for possible future use on a Lincoln Blvd. extension that never came to fruition. [AR 172-173.] The abandoned excavation sits directly beneath and nearly perpendicular to the northernmost LAX runway. [AR 2004-2017.] The underground improvement would be required to be backfilled under each SPAS Alternative proposing to move the northernmost LAX runway farther north. [AR 4414.]

In response to ARSAC's comments to the DEIR, the formal FEIR response to comments observes, in pertinent part:

> "The north airfield abandoned tunnel segment (referred to by the commentor as the Manchester Tunnel...) **is not, nor has it ever been, an actual tunnel**. Rather, in 1969 or 1970, **a concrete structure was placed beneath the runway to allow for implementation of a future tunnel** that would extend Lincoln Boulevard beneath the north airfield. The northerly limits of the tunnel begin approximately 280 feet north of the northern edge of Runway 6L/24R, at the service road that lies to the north of Runway 6L/24R and south of the Argo Drainage Channel. The segment runs perpendicular to the runway and extends south to a point approximately 270 feet north of the northern edge of Runway 6R/24L. The tunnel is approximately 722 feet in length. **The tunnel consists of two separate tubes, each approximately 49 feet wide and with an interior height of 29 feet. The roof of the tunnel is not integrated into the airfield pavement above but,**

rather, rests approximately 15 feet below grade. The tunnel is concrete lined on its sides and top; the floor of the tunnel is dirt. The tunnel is not vented."

"In 2010, LAWA entered the tunnel to perform an evaluation. Water was found at the base of the steel supports in the tunnel segment. The floor of one of the tunnels was found to be dry; the floor of the second tunnel had some muddy soil. Given the humidity of the tunnel, the source of the water may be condensation, as the natural moisture in the soil has no means to exit the sealed, unventilated space. Alternately, the source of water could be subsurface intrusion from beneath the tunnel or dripping from the ceiling from a drainage issue above the tunnel. There were no signs of erosion that would be associated with flowing water. In a boring drilled when the tunnel segment was installed, the depth to groundwater was 59 feet. **No evidence was found of any contamination or any hazardous materials in the tunnel segment during the investigation**."

"The inspection conducted in 2010 found the tunnel to be in good condition. The tunnel is stable and presents no short- or long-term hazards to the airfield. At no time has the tunnel been found to be destabilizing the runway and no distress has been observed to date... **Detailed engineering design has not yet been completed for the north airfield improvements. Therefore, no engineering details have been developed concerning the tunnel segment and whether or not it would require any modification with implementation of the SPAS alternatives**." [AR 13475-13476.]

ARSAC argues that this level of detail now requires Los Angeles to be more specific and determine "the quantity of fill that will be required, the number of truck trips to deliver that dirt, and the traffic and air quality impacts of moving that dirt". [ARSAC opening brief, at 35.] However, as long as a programmatic DEIR recognizes the potential program-wide significance of construction/traffic impacts associated with the ultimate construction project, [AR 5681], and as long as program-wide mitigation measures have been adopted in anticipation of those impacts [AR 5682-5683][87], it would defeat the purpose of having a programmatic level DEIR if every potential construction detail of each subsequently tiered sub-project needed full blueprint-level specification.

The 2012 SPAS DEIR is a *program* document covering an array of airfield runway geometrics as well as airport ground transportation access options, including an APM, GTC, ITC and CONRAC. The 2012 SPAS DEIR is not a project EIR and does not purport to be a project EIR, reaching such detail as the specific quantity of fill required to backfill an abandoned underground tunnel segment and the associated dump truck trips. "**[A] *program* EIR is distinct**

[87] A program EIR allows the lead agency **to consider "program wide mitigation measures** at an early time when the agency has greater flexibility to deal with basic problems or cumulative impacts". (*In re Bay-Delta, supra*, 43 Cal.4th at 1169.)

from a *project* EIR. [...A project EIR] is prepared for a specific project and must examine in detail site-specific considerations." (*In re Bay-Delta, supra*, 43 Cal.4th at 1169.)

In similar fashion, ARSAC contends that the construction of the 540' Lincoln Blvd. tunnel under Alternative 1 "could" require relocation of underground sewer lines and/or other utility lines; and/or could result in "seepage" into the tunnel from unstated hydrological conditions; and therefore such localized construction impediment possibilities must be addressed in the program level SPAS DEIR. [ARSAC opening brief, at 34-36.]

In fact, the record establishes that the proposed Lincoln Blvd. tunnel "**would not exceed approximately 30 feet**" below grade. [AR 12450.] There are two major "outfall" sewers in the vicinity of Lincoln Blvd., both of which are **in excess of 65 feet** below the surface. [AR 12461.] The record clarifies that "[a]t these depths, **the Lincoln Blvd. realignment**, which depression would not exceed approximately 30 feet, **would not interfere with** these **outfall sewers**, as acknowledged by the City of Los Angeles Bureau of Sanitation". [*Id.*][Emphasis added.]

As noted by Los Angeles in its response to DEIR comments:

> "[D]etailed project-level planning and design have not occurred at this stage in the SPAS process, including detailed engineering design for the Lincoln Blvd. realignment. **Detailed information on soil conditions, geotechnical concerns, and subsurface utilities can feasibly be developed during construction-level planning**. As such, these issues would be evaluated during engineering design and project-level CEQA review for the Lincoln Boulevard realignment, if it is proposed for implementation...."
>
> "**[Los Angeles] has not identified other major utilities, including oil pipelines, in the vicinity of the Lincoln Blvd. realignment**. Nevertheless, it is expected that **numerous utilities could require relocation, which could include smaller sewers, water lines, storm drains, electrical lines, fiber optic cables, oil pipelines and other utilities**. (There are no known plugged or abandoned oil gas wells in the vicinity of the Lincoln Boulevard realignment...) **Such impacts would be identified during project-level engineering and environmental review**. Construction of SPAS-related improvements, such as Lincoln Boulevard, that have the potential to interfere with existing subsurface utilities would be subject to **LAX Master Plan Commitment PU-1, which requires that a utility relocation program be implemented during construction to minimize potential impacts to existing subsurface utilities, including service disruptions, and to ensure that potential impacts to such utilities would be less than significant**. Developing and implementing a utility relocation program would ensure that impacts on

existing utility services and distribution facilities would be less than significant. [AR 12461-12462.] [Emphasis added.][88]

The lack of specific, blueprint/construction-level detail, deferring to a subsequent project-level document, is the very definition of a programmatic EIR. (*In re Bay-Delta, supra*, 43 Cal.4th at 1169.) In the SPAS program document, the partial potential relocation of Lincoln Boulevard and the Alternative 1-associated 540' tunnel is a logistical consequence of one of many SPAS project components -- the 260' northward relocation of the northernmost LAX runway, which in turn is a consequence of modern aviation technology, aircraft passenger safety needs and proper airfield geometrics.

Future construction of each of the components of the Alternative 1/Alternative 9 SPAS program, under subsequent tiered project EIRs, could entail many underground utility encounters across the various proposed air terminal demolitions/relocations/constructions, the APM, the GTC, the ITC, the CONRAC, or elsewhere. Here, as long as Los Angeles has a mitigation plan in place for possible utility relocation – it has; and as long as Los Angeles has advised the decision maker of the anticipated cost of such possible utility relocation – it has; and as long as Los Angeles has informed the decision maker of everything it currently knows about subsurface utilities in the program sub-area in question – it has, this court finds no fault with SPAS program-level deferral of extensive construction-level mapping of potential Lincoln Blvd. relocation subsurfaces for utility line relocation specifics, if any, to the project-level stage.

VII

THE SPAS PROGRAM EIR SUFFICIENTLY CONSIDERS AND MITIGATES BIOLOGICAL IMPACTS

There are sensitive biological resources to be found within "disturbed" open space coastal dunes in the western portions of LAX, east of the road separating the airport from Dockweiler State Beach. [AR 4615-4616, 4632- 4638.] Further, between the northernmost LAX runway and the LAX northern perimeter sits the 9900-foot Argo Drainage Channel, a man-made storm drain,

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[88] Los Angeles was able to render a "preliminary rough order of magnitude" cost for each SPAS Study project alternative, estimating $61.2 million to the Lincoln Blvd. relocation component of Alternative 1, which sum includes "assumptions and allowances for those factors that are not known at this time", of which the prime example is listed as "utilities". [AR 2486, 12452-12453.]

which falls within federal and state wetlands jurisdiction and may have biological value. [AR 172, 7306-7339.] [89]

There are currently "navigational aids" within the coastal dunes west of and parallel to the LAX runways which assist airline pilots landing passenger aircraft; and service roads within the coastal dunes accessing those locations. [AR 172.] The proposed Alternative 1 relocation of the northernmost LAX runway 260 feet farther north will require the northernmost runway navigational aids and associated service roads to also be moved 260 feet north. [AR 172, 1972-1994.]

The Argo Drainage Channel is a man-made canal built in approximately 1949 as a part of Los Angeles' storm drain system. [AR 7311, 7324.] The Argo drainage system does not connect to any river, lake or stream. [*Id.*] The open drainage channel comes out of one concrete culvert and flows into a second concrete culvert. [AR 7324.] SPAS Alternative 1 proposes to culvertize the open portion of the Argo Drainage Channel consistent with FAA OFA safety requirements for the northernmost runway. [AR 172, 1952-1960, 7325.]

In assessing biological impacts, *inter alia*, Los Angeles hired consultants to conduct a series of surveys and assessments to identify both plant and wildlife resources as to both the landlocked coastal dune area [AR 4620-4624, 4627-4646, 7242-7305] and the Argo storm drain [AR 4650]. The results are detailed. [*Id.*] Impacts of light emissions, air emissions and noise were analyzed. [AR 4624-4625, 4650-4652.]

Eight resource conservation commitments and mitigation measures from the 2004 LAX Master Plan were specifically incorporated into mitigation for 2012 SPAS DEIR alternatives, including replacement of affected sensitive habitat. [AR 4653-4658.] The specific biological impact of each proposed SPAS alternative, both individually and comparatively, including SPAS Alternative 1 and SPAS Alternative 9, are analyzed at length. [AR 4658-4740.] Fourteen additional biological mitigation measures specific to the SPAS Alternatives Study were adopted by Los Angeles which, in combination, were determined to reduce any biological impacts of the

[89] Photographs of the Argo Drainage Channel can be found at AR 7318. According to the jurisdictional delineation submitted as part of the 2012 SPAS DEIR, under federal law, 2.45 acres of that drainage are considered non-wetland waters and 1.33 acres are deemed jurisdictional wetlands. [AR 7310.] Under state law, the channel consists of 2.45 acres of "streambed" and 1.52 acres of riparian habitat. [*Id.*]

SPAS alternatives to levels of insignificance. [AR 4740-4748.] The mitigation measures include replacement of sensitive habitat [90]; mature tree replacement, wildlife relocation, and off-site wetlands restoration/enhancement. [*Id.*]

The "navigational aids" currently within the coastal dunes consist of portions of aircraft instrument landing light systems, markers, antennae and access improvements. [AR 4756 (map)]. The 2012 SPAS DEIR maps and analyzes the impacts of relocation of the navigational aids for each proposed LAX runway relocation. [AR 4762-4787.] With respect to SPAS Alternative 1, the proposed improvements consist solely of parallel instrument landing lights, one localizer antenna, one new middle (of the runway) marker for each of the two northern runways, one radar deflector, and one additional service road to access those navigational aids. [AR 4762-4763, 4764 (map).] As analyzed and concluded in the DEIR, "**with implementation of existing LAX Master Plan and proposed SPAS mitigation measures**", impacts upon biological resources would be less than significant. [AR 4763, 4766.]

ARSAC contends that the program level SPAS DEIR does not sufficiently consider biological impacts of moving the northernmost runway navigational aids and service roads; and does not sufficiently consider the biological impacts associated with the proposed Argo Drainage Channel culvertization. [ARSAC opening brief, at 37-39.] This court disagrees, particularly in light of aforementioned biological mitigation measures adopted by Los Angeles at this level of environmental review. ARSAC's further claim of lack of construction details [ARSAC opening

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[90] SPAS mitigation measure MM-BIO (SPAS) requires LAX's replacement habitat to comply with the FAA Advisory Circular 150/5200-33B, which document discusses FAA criteria intended to keep "wildlife attractants" a safe distance from aircraft, including airport approach, departure and circling airspace. [See fn. 43, *ante*, re "birdstrikes"]. Per the FAA, safe perimeter "separations" for an airport such as LAX is 10,000 feet; which safety zone increases to five miles in the surrounding airspace. The FAA circular "strongly recommends that off-airport **storm water management systems** located within the separations ...**be designed and operated so as not to create above-ground standing water**." [Emphasis added.] With respect to wetlands located within the separation zone, the FAA circular advises:

> "At public-use airports, the FAA recommends immediately correcting, in cooperation with local, state, and Federal regulatory agencies, any wildlife hazards arising from existing wetlands located on or near airports."
> http://www.faa.gov/documentLibrary/media/advisory_circular/150-5200-33B/150_5200_33b.pdf

brief, 38-39] is once again the product of conflation of a program-level EIR with a construction-level project EIR. (*In re Bay-Delta, supra*, 43 Cal.4th at 1169.)

VIII

THE 2012 SPAS DEIR SUFFICIENTLY ANALYZES THE PROPOSED SHIFT OF THE NORTHERNMOST RPZ FROM CURRENTLY UNDERLYING RESIDENTIAL TO UNDERLYING COMMERCIAL USES

A Runway Protection Zone ["RPZ"] is a two-dimensional trapezoidal area located at the end of a runway extending into aircraft approach, designed "to enhance the protection of people and property on the ground". [AR 1930, 109321, 109454.] Based upon the types of aircraft operating at LAX, the RPZ **length** extends **2,500 feet** from the approach end of the runway, with the trapezoidal shape beginning at a **width** of 1,000 feet at the end of the runway, gradually widening to **1,750 feet** away from the runway. [AR 4942.] The FAA recommends that an airport own or control land uses within each respective RPZ, but this can be "impracticable" across an entire RPZ. [*Id.*] Here, Los Angeles does not own or control all of the land 2500 feet east of its north runways within the trapezoidal overlay. [AR 4946.]

As part of the 2012 SPAS Alternatives Study, Los Angeles retained aviation consultants to map the RPZ across a litany of runway relocation and threshold displacement geometrics. [AR 1928-1950.] Within its *existing* off-site RPZ, the northernmost LAX runway **includes eight single-family homes, one multi-family residential structure**, seven parking lots, four vacant parcels, and eleven commercial/governmental parcels. [AR 1498-1499, 1513 (photograph), 1931, 1934 (diagram).], 4948, 4997.]

Per the consultant's report, the number of affected private residences within the RPZ would be increased as the northernmost runway relocates northward [AR 1931] *unless* the runway threshold is *also* displaced and extended 604 feet west [AR 1932]. Under the latter scenario, the number of residences in the RPZ *reduces to zero*, and the affected number of commercial uses within the RPZ increases as the runway relocates farther north. [*Id.*] By moving the northernmost runway 260 feet north under SPAS Alternative 1, using an extended and displaced threshold, the total number of prospectively affected parcels (30) is slightly less than the current number of RPZ-affected parcels (31), again with reduction of RPZ residential units to *zero*. [AR 4964, 4967, 4996, 12188.]

The 2012 SPAS DEIR analysis concludes that the northernmost runway relocation and extension proposed in SPAS Alternative 1 is "**not considered to pose a significant safety hazard compared to baseline conditions**". [AR 4967.] Noting that the federal government would still have to approve any changes to the RPZ through "detailed [FAA] safety evaluation", the SPAS DEIR notes that any significant aviation safety hazards *determined by the FAA* resulting from a reconfigured RPZ would need to be addressed through "measures [which] range from doing nothing (i.e., for low-risk objects), to placing high-visibility markings and lighting on the object to make it highly visible to pilots and indicating such objects on avigation maps, to lowering, reducing, or removing the object, and, in some cases, an approach or departure procedure will be modified to allow aircraft to safely navigate...." [AR 4973.] Depending upon FAA findings of significant safety hazards, Los Angeles could be required to acquire land or easements to ameliorate the hazard. [AR 4967, 4973.] As set forth in the DEIR:

> "The analysis requires **detailed runway design and engineering data not available at this conceptual level of planning**, and **would occur during the normal course of FAA review and approval** of proposed airfield improvements. The analysis would set forth and define the appropriate means and measures to address potential safety concerns related to objects located within [navigable airspace]." [91] [AR 4963.] [Emphasis added.]

When the issue of the potential secondary or indirect impacts of possible future FAA-mandated measures within the RPZ was raised, Los Angeles, to the extent known, addressed possible impacts of ameliorating potential airspace obstructions or incompatible structures/uses in terms of aesthetics, air quality, biological resources, coastal resources, cultural resources, greenhouse gases, hazards/hazardous materials, hydrology/water quality, land use and planning, noise, public services, transportation and utilities. [AR 12190-12194.]

Despite the SPAS DEIR finding that the proposed RPZ relocation 260' north under Alternative 1 results in **no significant safety hazard over baseline** [AR 4967], ARSAC argues that conducting detailed FAA safety evaluation of navigable airspace as required by federal law,

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[91] The discussion in the DEIR of "Part 77 imaginary surfaces" and the "Part 77 Transitional Surface" [AR refers to the regulation of the safe, efficient use and preservation of navigable airspace under Part 77 of the Federal Acquisition Regulations ["FAR"].
http://www.dot.ca.gov/hq/planning/aeronaut/documents/regulations/faa_far_part77.pdf

after SPAS planning-level review, but before any future project-level approval, violates CEQA. [ARSAC opening brief, at 39-41.] [92]

Where a lead agency is seeking a *project-level construction* approval, deferred mitigation is acceptable under CEQA when (1) practical considerations prevent the timely formulation of mitigation measures; (2) the agency commits itself to formulating the mitigation measures in the future; and (3) the agency adopts specific performance criteria that the mitigation measures are required to satisfy. *POET, LLC v. State Air Resources Bd.* (2013) 218 Cal. App. 4th 681, 736. In this case, where the court is analyzing a *programmatic planning-level DEIR*, which *by definition* defers detailed, site-specific information to subsequent environmental review (*In re Bay-Delta, supra*, 43 Cal.4th 1143, 1170), where the lead agency identifies all of the possibilities of FAA navigable airspace obstruction measures [AR 4973], where the EIR provides the decision maker with all known information [AR 12190-12194], and where the lead agency expressly finds no significant human safety impact over baseline [AR 4943], there is "sufficient information and analysis to enable the public to discern the analytical route the agency traveled from evidence to action." *North Coast Rivers Alliance, supra*, 216 Cal.App.4th at 639-640.

ARSAC's very argument was made and rejected in *Citizens Opposing a Dangerous Environment v. County of Kern* ["*Citizens Opposing*"] (2014) 228 Cal. App. 4th 360, in which the mitigation conditions in a *project-level* EIR required *further application* to the FAA for authorizing approval prior to issuance of building permits. [228 Cal. App. 4th at 364-365.] According to the appellate court in *Citizens Opposing, supra*, in pertinent part:

> "[W]e reject [petitioner]'s claim that the County 'hid[] behind the fig leaf of a non-existent federal preemption" and consequently failed to exercise its "express or implied powers' to mitigate a significant environmental impact ([Pub.Res.C.]§ 21004). 'The goal of a mitigation measure is "to reduce the impact of a 'proposed project to insignificant levels." [Citation.] **In the instant case, the impact at issue concerned aviation safety. '[F]ederal law occupies the entire field of aviation safety'** (*Montalvo v. Spirit Airlines* (9th Cir. 2007) 508 F.3d 464, 473; [citations]; see 49 U.S.C. § 40103(a)(1) ['**The United**

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[92] Again, ARSAC forfeits the argument by failing to cite the court to the substantial evidence in support of Los Angeles' findings of lack of significant impacts over baseline (*Citizens for a Sustainable Treasure Island*, supra, 227 Cal.App. 4th at 1064, citing *South County Citizens, supra*, 221 Cal.App.4th at 331); including but not limited to the undisputed elimination of *all* residential dwellings from the RPZ under SPAS Alternative 1, plus a slight overall reduction in total number of parcels affected. [AR 4964.]

States Government has exclusive sovereignty of airspace of the United States."]) and **the FAA "exercise[s] *sole discretion* in regulating air safety'** (*Abdullah v. American Airlines, Inc.* (3d Cir. 1999) 181 F.3d 363, 369, italics added; see 49 U.S.C. § 40103(b)(1); *Air Line Pilots Assn., Internat. v. Quesada* (2d Cir. 1960) 276 F.2d 892, 894 ['The Federal Aviation Act was passed by Congress for the purpose of centralizing in a single authority—indeed, in one administrator—the power to frame rules for the safe and efficient use of the nation's airspace.']).**"**

"Pursuant to title 49 United States Code sections 40103 and 44718, the FAA promulgated **14 Code of Federal Regulations part 77** (2014) (*Big Stone Broadcasting, Inc. v. Lindbloom* (D.S.D. 2001) 161 F.Supp.2d 1009, 1011, 1015–1016), which '**establishes standards for determining obstructions in navigable airspace**, sets forth the requirements for notice of certain proposed construction plans, **provides aeronautical studies to determine the effect of any proposed construction on the safe and efficient use of airspace**, and **provides for public hearings on the hazardous effect of any proposed construction.**" (*Id.* at p. 1016; see *Aircraft Owners & Pilots Assn. v. Federal Aviation Administration* (D.C. Cir. 1979) 195 U.S. App.D.C. 151 [600 F.2d 965, 966] (*Aircraft Owners*).) ..., '**Once the FAA has been given notice under Part 77, the FAA's Obstruction Evaluation Service has the responsibility for conducting an "obstruction evaluation" to determine the effect, if any, that the proposed construction or alteration would have on navigable airspace.** [Citation.] The result of a study under Part 77 'is normally a determination as to whether the specific proposal studied would be a hazard to air navigation.' [Citation.]' (*Goodspeed Airport, LLC v. East Haddam Inland Wetlands & Watercourses Com.* (D.Conn. 2010) 681 F.Supp.2d 182, 194–195.)"

If the deferral of a Part 77 navigational airspace analysis to future FAA determination was completely adequate mitigation under CEQA on a *project-level* EIR in *Citizens Opposing, supra,* very little can be argued by ARSAC about Los Angeles' deferral of FAA navigational airspace analysis on the instant *program-level* document. There has been no CEQA violation in the program-level SPAS DEIR by deferring the "Part 77" RPZ navigational airspace analysis to the FAA. (See generally, *In re Bay-Delta, supra,* 43 Cal.4th at 1169.)

IX

LOS ANGELES PROPERLY REJECTED SPAS ALTERNATIVE 2 (NO RUNWAY RELOCATION) BASED UPON AIRCRAFT PASSENGER SAFETY OBJECTIVES SUPPORTED BY SUBSTANTIAL EVIDENCE

ARSAC's final argument not previously discussed is its contention that Los Angeles is compelled under CEQA to adopt the "no runway relocation" SPAS Alternative 2, rather than SPAS Alternative 1, as the "environmentally superior" alternative. [ARSAC opening brief, at 41-47.] Lost in ARSAC's concerns about moving one runway 260 feet, *inter alia*, are the legitimate

safety concerns of the more than 60,000,000 air travelers arriving and departing from LAX each year, nearly half of whom are currently departing or arriving on the LAX north airfield. [AR 109, 120-121, 2979-2988, 4953-4956 (FAA), 4958, 12634, 15291, 115282-115283 (FAA).]

Virtually all of the LAX north runway incursions occur on the inbound runway, either at midfield taxiway crossings or at the approach end of the runway. [AR 15272 (diagram).] There were substantial runway incursions on the LAX south airfield as well, until the construction of a new centerfield parallel taxiway between the two south runways reduced incursions on that airfield by approximately 40 percent. [AR 12941, 15281-15282.] As advised by former FAA administrator Marion Blakey to Los Angeles on August 23, 2007: "**Fix that north [LAX] airfield now.**" [AR 15264.]

The first and foremost SPAS Alternatives **project objective**, as set out in the 2012 SPAS DEIR, is to "1. **Provide North Airfield Improvements that Support the Safe and Efficient Movement of Aircraft at LAX.**" [AR 4366.] After discussing the design deficiencies of the existing LAX north airfield in the context of modern aviation technology, the SPAS DEIR [AR 4366-4367] identifies the problems associated with the objective:

> "Problems associated with the outdated airfield design include, but are not limited to, the following:
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> □ **LAX does not have an airfield**, in either the north complex or the south complex, that is **fully designed for the largest aircraft types currently in service** (i.e., Aircraft Design Group (ADG) V aircraft, such as the Boeing 747-400, and ADG VI aircraft, such as the Airbus A380).
>
> □ **The north airfield configuration requires non-standard operating procedures, which are not optimal for safety and increase aircraft delay.**
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> □ **The primary north airfield departure runway (6R/24L) is too short** for certain larger aircraft (e.g., fully loaded Boeing 747-400) on long-haul flights, requiring those aircraft to taxi to the south airfield, resulting in less efficient operations and disproportionate environmental impacts.
>
> □ **The outdated airfield design creates a situation where aircraft are at increased risk of hazards. Those hazards include potential collisions with other aircraft, such as when a landing aircraft might move in the path of a departing aircraft (incursion). Other potential hazards include, but are not limited to, insufficient side-by-side passing clearances between certain types of aircraft arriving/departing on runways and aircraft on nearby taxiways.** Such hazards contribute to the potential for

conflicts between taxiing aircraft and ground vehicles on runways, taxiways, and nearby service roads.

□ With one exception, **the north airfield configuration does not comply with FAA Runway Safety Area** (RSA) **requirements.**

□ The **north airfield high-speed taxiways are not in compliance with FAA Engineering Brief No. 75.** [93]

□ The **north airfield does not provide sufficient areas at the end of the runways for holding arriving flights and sequencing departing aircraft.**

□ The **existing Runway Protection Zone (RPZ) associated with Runway 6L/24R includes residential uses.**" [AR 3924-3925, 4367.] [Emphasis added.]

In anticipation of satisfying this important project objective, the 2012 SPAS DEIR sets out criteria for the evaluation of alternatives to the previously approved Alternative D:

"In identifying and evaluating alternatives to the north airfield improvements called for in the LAX Master Plan, [Los Angles] is seeking to provide north airfield **improvements that support the safe and efficient movement of aircraft at LAX; specifically, such improvements**:

□ Are **consistent with FAA design standards for the largest aircraft types currently in service and anticipated for the future (ADG V and VI aircraft) for all weather conditions**;

□ **Minimize modifications of standards, waivers, or operational restrictions, all of which reduce airfield efficiency and level of service**;

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[93] FAA Engineering Brief No. 75 is entitled "*Incorporation of Runway Incursion Prevention into Taxiway and Apron Design*". [AR 109760-109788.] The study showed that nearly 90% of all runway incursions at U.S. airports involve **arriving aircraft crossing departure runways** en route to their gate. [AR 109762.] In addition to recommending "**full parallel taxiways...as a standard airport design element**", runway incursion statistics also established the need to have a 90° angle of intersection at the taxiway and runway, except for "high-speed exit taxiways", to allow taxiing pilots to see aircraft traffic in both directions . [AR 109765-109766.] According to the referenced FAA engineering brief:

"**Full parallel taxiways provide a standard routing of aircraft to and from the runway recognizable to the pilots. Parallel taxiways additionally limit direct inadvertent access onto runways for departing aircraft and reduce runway crossings by providing access to the runway ends on each side of the runway (where necessary).** Therefore, runway safety will be enhanced since facilities on both sides of the runway will have access to the end of the runway without requiring a runway crossing." [Emphasis added.] [AR 108766.]

□ **Reduce the potential for airfield hazards, including incursions, and enhance the overall safety of airfield operations through runway and taxiway design**;

□ **Accommodate a greater percentage of departing aircraft, thereby increasing airfield efficiency**;

□ **Provide sufficient areas at the ends of the runways for holding arriving flights and sequencing departing aircraft**; and

□ **Minimize or eliminate the extent to which Runway Protection Zones overlay residential areas.**" [AR 3925, 4367.] [Emphasis added.]

As stated in *Town of Atherton v. California High-Speed Rail Authority* ["*Town of Atherton*"] (2014) 228 Cal. App. 4th 314, 353:

> "The entire purpose of the alternatives section in an EIR is to consider environmentally superior alternatives that would 'accomplish most of the project objectives.' " (*The Flanders Foundation v. City of Carmel-by-the-Sea* (2014) 202 Cal.App.4th 603, 623.) **"[A] lead agency may reject an alternative as infeasible because it cannot meet project objectives, as long as the finding is supported by substantial evidence in the record**. [Citations.]" (*Rialto* [*v. Citizens for Responsible Growth v. City of Rialto* (2012)] 208 Cal.App.4th [899,] 949.)" [Emphasis added.]

While SPAS Alternative 2 may have some certain lesser environmental impacts, particularly in terms of reduced temporary airfield-related construction activity rendering it "environmentally superior" [AR 4362], **Alternative 2 does not come close to satisfying LAX airfield project objectives**, particularly when compared with SPAS Alternative 1, Alternative 3 (*i.e.*, previously approved Alternative D), or Alternative 5. [AR 4298, 15977.] Substantial evidence in the record supports Los Angeles' findings as follows:

Because of the proximity of its two north airfield runways, and the size and location of the north airfield taxiways serving those runways, LAX must operate larger aircraft under a complex set of restrictions imposed by the FAA. [AR 4938-4939, 16638.] SPAS **Alternative 2**, the "no runway relocation" alternative with no parallel centerfield taxiway urged by ARSAC, "is **not sufficient to hold larger [Design Group] V and VI aircraft**", and therefore fails to meet the first stated airfield project criterion of "consisten[cy] with FAA design standards for the largest aircraft types currently in service and anticipated for the future (ADG V and VI aircraft)". [AR 4367, 4379.] Under SPAS Alternative 2, the existing **large aircraft restrictions and inefficient operating procedures "would remain in place",** thereby failing to meet the second

stated airfield project criterion intended to "minimize modifications of standards, waivers, or operational restrictions, all of which reduce airfield efficiency and level of service". [*Id.*]

Consistent with FAA-recommended airfield engineering practices, a centerfield taxiway increases aircraft safety:

> "[A] **centerfield taxiway, coupled with increased runway separation, would reduce the potential for a runway collision or incursion and enhance safety**, particularly as related to future operations involving a greater number of large aircraft. A centerfield taxiway also provides **more time and options for** Federal Aviation Administration (FAA) **air traffic controllers to manage aircraft** exiting the outboard runway; **more time and distance for the pilot of an arriving aircraft to exit** the outboard runway, **slow down and hold** before crossing the inboard runway; and reduces the potential for incursions and other hazards." [Emphasis added.] [AR 13509.]

Under SPAS **Alternative 2**, there would be ***no centerfield taxiway***, and LAX would continue to provide taxiing pilots with **only a limited line of sight at runway crossings,** thereby failing to meet the third stated airfield project criterion of "reducing the potential for airfield hazards, including incursions, and enhance the overall safety of airfield operations through runway and taxiway design. [AR 4367, 4379, 16609, 16638.] Because SPAS Alternative 2 involves no centerfield taxiway and further runway separation to augment timely and efficient aircraft queuing, SPAS Alternative 2 fails to meet the fourth airfield project criterion goal intended to "accommodate a greater percentage of departing aircraft, thereby increasing airfield efficiency". [*Id.*]

SPAS Alternative 2, which **would not further separate the two north airfield runways**, fails to meet the fifth airfield project criterion intended to "provide sufficient areas at the ends of the runways for holding arriving flights and sequencing departing aircraft". [AR 4367, 4379.] Lastly, SPAS Alternative 2 would **retain the existing RPZ** which includes **eight single-family residences and one multi-family complex**, and thereby failing to meet the sixth and final airfield project criterion intending to "minimize or eliminate the extent to which Runway Protection Zones overlay residential areas". [*Id.*]

To summarize, substantial evidence in the record supports the finding that **SPAS Alternative 2 meets none of the SPAS north airfield objectives**. In contrast, staff-recommended SPAS Alternative 1 satisfies virtually all of the LAX north airfield criteria.

SPAS **Alternative 1**, upon moving the northernmost runway relocated 260 feet north, "**would provide for standardization of nearly all airfield operations, substantially improve pilot situational awareness, address all airfield hazards, including efficiency features**". [AR 12073.] **Specifically,** SPAS **Alternative 1 would standardize 99.87% of all aircraft operations** on the north airfield, the only exception being Design Group VI aircraft when visibility is less than one-half mile, "a condition that occurs infrequently at LAX". [AR 12073, 15981, 16638.] SPAS Alternative 1 "[p]rovides greater amount of runway and taxiway facilities that meet FAA Airport Design Standards for [Design Group] V and VI aircraft, particularly as related to separation requirements, thereby reducing the need for special operations restrictions, [modification of standards], and waivers from FAA". [AR 4972.]

SPAS **Alternative 1 would provide a centerfield taxiway which "would provide substantial safety benefits**"; including "more time and options for air traffic control to handle aircraft exiting the arrivals runway and; more time and distance for pilots to exit the arrivals runway, slow down, and hold before crossing the departures runway". [AR 12073, 142060.]

SPAS Alternative 1 provides a 90° "enhanced line of sight" at both ends of the runway for pilots taxiing at runway intersections through Design Group V. [AR 16610.] SPAS **Alternative 1 provides 1005 feet more distance to the airfield runway crossing "hold bar" than SPAS Alternative 2,** thereby providing "sufficient areas at the ends of the runways for holding arriving flights and sequencing departing aircraft". [AR 4367, 12060.] SPAS **Alternative 1 relocates the RPZ and thereby removes all residential dwellings**. [AR 5020-5021, 12073, 16667, 142062.]

Beyond the numerous operational airline safety advantages of SPAS Alternative 1 over SPAS Alternative 2, the additional runway separation afforded by Alternative 1 results in incrementally **better operational** results on **air quality** than Alternative 2: "**Alternative 1 peak daily aircraft emissions for all criteria pollutants (CO, VOC, NOx, SO2, PM10, and PM2.5) would be lower than aircraft emissions under Alternatives 2.**" [AR 4581, 142067.] [Emphasis added.] Likewise, by further separating emissions sources, operational greenhouse gases were found to be more substantial under SPAS Alternative 2 than Alternative 1; as would air quality-associated acute non-cancer health hazards. [AR 4018.]

Additionally, in light of the modified northernmost runway approach proposed under SPAS Alternative 1, **aircraft noise impacts** at threshold acceptability levels would significantly impact less residents and residential dwellings than SPAS Alternative 2: "Relative to a 1.5 CNEL increase above 65 CNEL which includes areas currently exposed to noise levels greater than 65 CNEL, **the total residential units and residential population exposed to such an increase is consistently higher for alternatives that do not move the runways** (such as Alternative 2)." [AR 5378, 12582, 15980.] [Emphasis added.]

Upon this veritable mountain range of substantial evidence, Los Angeles' CEQA findings conclude that "implementation of **Alternative 2 would minimally respond to the project objective of providing north airfield improvements** that supports safe and efficient movement of aircraft at LAX, **as compared to** the airfield improvements under... **the Alternative 1 airfield improvements that largely respond to that objective**." [AR 4016.] [Emphasis added.] Specifically, the CEQA findings state, in pertinent part:

> "[T]here are several aspects of **Alternative 2** related to **airfield safety and efficiency enhancements that fall far short of** those included in **Alternative 1 including**: the ability to shift the runway protection zone (RPZ) for Runway 24R westward whereby **residences** and the vehicle staging area west of Sepulveda Boulevard would **no longer** be **located within the RPZ**; providing increased separation between runways and between runways and taxiways, which **better enables taxiing and holding aircraft to stay clear of runway object free zone** (OFZ) **and runway safety area** (RSA) surfaces; allowing the **addition of a centerfield parallel taxiway that includes high-speed exits** from Runway 6L/24R, which **provides more time and options for FAA air traffic controllers to handle aircraft exiting** the runway; **more time and distance for the pilot** of an arriving aircraft **to exit the runway, slow down and hold** before crossing Runway 6R/24L, and **reduced potential for safety hazards/incursions**; and, improving the locations and design of crossing points (i.e., **90-degree crossing angle**) at Runway 6R/24L, which provides **better pilot visibility** down Runway 6R/24L before crossing .... Implementation of the airfield component of **Alternative 1**, which includes increased runway separation and the addition of a centerfield taxiway, **can achieve such safety benefits**, whereas **Alternative 2 will not**." [AR 4016.]
>
> "The airfield component of Alternative 2 is also much less responsive to the project objective of enhancing safety and security at LAX. While both Alternatives 1 and 2 respond comparably to the security aspect of that project objective, Alternative 2 responds only minimally to the safety aspect of the objective as compared to Alternative 1... the **limited airfield improvements proposed under Alternative 2 do not increase standardization of aircraft operations** and address only some airfield hazards. By contrast, the **airfield improvements under Alternative 1**, as included in the LAWA

Staff-Recommended Alternative, **provide standardization of nearly all airfield operations and address all airfield hazards**..." [AR 4017.]

"[T]he SPAS **Draft EIR identified Alternative 2 as the environmentally superior** alternative, in part **due to the fact that it would** include very limited airfield improvements which would **require less construction** than all of the other alternatives, except Alternative 4, and therefore would result in reduced/fewer significant construction-related impacts. **However, there are no major environmental topical areas where Alternative 2 would avoid or substantially reduce significant unavoidable impacts associated with [SPAS Alternative 1/Alternative 9]**." [AR 4017.]

"**In light of** the relatively moderate environmental advantages of Alternative 2 over [SPAS Alternative 1/Alternative 9]", coupled with **the inability of Alternative 2 to meet project objectives to the same extent as [SPAS Alternative 1/Alternative 9], particularly those objectives related to airfield safety, Alternative 2 is found to be infeasible and is rejected in favor of [Alternative 1]**." [AR 4019.] [Emphasis added.]

As noted above, it is a black-letter rule of CEQA that "a lead agency may reject an alternative as infeasible because it cannot meet project objectives, as long as the finding is supported by substantial evidence in the record." Absent legal error, and here there was none cited and none found, Los Angeles' infeasibility findings are entitled to great deference and are presumed correct. (*California Native Plant Society v. City of Santa Cruz* (2009) 177 Cal. App. 4th 957, 981-983.) "The parties seeking *mandamus* bear the burden of proving otherwise, and **the reviewing court must resolve reasonable doubts in favor of the administrative findings and determination**." (*Sierra Club v. County of Napa* (2004) 121 Cal.App.4th 1490, 1497.)[94]

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[94] ARSAC attempts to use this opportunity to minimize airline passenger safety risk under the 2010 NASS study which, *inter alia*, found that likelihood of a "fatal runway collision" would substantially decrease by virtue of greater north runway separation. [ARSAC opening brief, at 46-47; *c.f.* AR 1505, 1508.] In addition to *completely ignoring all* of the numerous safety studies highlighting the dangers of the existing LAX north airfield and the proposed solutions [see, *e.g.*, AR 19414-19450 (Peer Review Group), 19451-19505 (Washington Consulting Group), 19506-19532 (International Aviation Management Group), 19533-19572 (URS Corporation), 19573-19593 (Airline Pilots Association), and thereby forfeiting the argument [*Citizens for a Sustainable Treasure Island*, supra, 227 Cal.App. 4th at 1064, citing *South County Citizens*, *supra*, 221 Cal.App.4th at 331], ARSAC also disregards the fact that the quotation ARSAC cites from **the NASS report was rejected** in a counter-report from the FAA, which is the federal agency that makes all the rules at LAX and controls LAX's certification. [AR 2981-2988.]

The FAA noted that NASS "inappropriately" used nationwide aggregate probability calculation methodology rather than assessing specific risks arising from traffic and configurations at LAX, with NASS using as its source a study drafted by the same NASS panel chairman. [AR 2982.] The NASS study disregarded specific risk factors unique to LAX. [AR 2983.] NASS failed to consider specific risks associated with larger aircraft. [AR 2984.] NASS failed to acknowledge the occurrence of fatal aircraft-

Judgment shall be entered in favor of Los Angeles upon both *mandamus* petitions. Los Angeles is directed to prepare two separate forms of judgment, consistent with the parties' earlier stipulation, one as to Inglewood/Culver City and one as to ARSAC, for the court's signature within five calendar days.

Costs to Los Angeles, to be allocated among each of the three petitioners jointly and severally.

Dated: April 8, 2016

Glen M. Reiser

Judge of the Superior Court

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to-aircraft collisions. [*Id.*] In fact, the number of **runway incursions reported LAX is greater** than that at comparable airports. [AR 2982.] NASS assumed reduction in incursions due to runway "warning" technologies, yet disregards that the statistical number of runway incursions has not diminished at LAX. [*Id.*] NASS failed to consider "**the outdated geometry of the north airfield**" in which separation between the two runways and taxiways is so tight that there is "**little time for pilots to slow an aircraft to an acceptable speed prior to reaching holdlines or another runway** "; and where "**taxiway connections** extending directly between the north airfield parallel runways **lead aircraft straight to potential collision points** on the runway surface". [AR 2985.] NASS failed to properly extrapolate from the significantly reduced number of incursions on the LAX south airfield since its centerfield taxiway was installed. [AR 2986.] NASS completely ignored non-fatal runway collision statistics. [*Id.*] NASS approached known safety risk from a "cost benefit" perspective rather than a safety management perspective. [*Id.*] As concluded by the FAA, "**the most basic element for preventing runway incursion and/or a fatal runway collision on the LAX north airfield remains the reconfiguration of the outdated airfield geometry**". [AR 2988.]

SUPERIOR COURT OF CALIFORNIA, COUNTY OF VENTURA
4353 East Vineyard Avenue
Oxnard CA 93036

Alliance for a Regional Solution to Airport Congestion v. City of Los Angeles, et al.

Case No.: 56-2014-00451038

CLERK'S CERTIFICATE OF SERVICE BY MAIL

I certify that I am not a party to this cause. I certify that a true copy of the **CONSOLIDATED ORDER ON PETITIONS FOR WRIT OF MANDATE** was mailed following standard court practices in a sealed envelope with postage fully prepaid, addressed as indicated below. The mailing and this certification occurred at Oxnard, California, on 4/8/16.

Clerk of the Court Sandy McCarty

Sandy McCarty

SEE ATTACHED SERVICE LIST

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Alliance for a Regional Solution to Airport Congestion v. City of Los Angeles, et al.
Ventura County Superior Court Case No. 2014-00451038

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